XIV 352

BENGAL GOVERNMENT LIBRARY

A COLLECTION

OF

THE ACTS

PASSED BY THE

GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1872.

CALCUTTA:
OFFICE OF SUPERINTENDENT OF GOVERNMENT PRINTING.
1873.

BENGAL SECRETARIAT LIBRARY.

TITLES

OF

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1872.

I. The Indian Evidence Act, 1872.

II. An Act to revive and continue the operation of Act XV of 1867 (*to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes*).

III. to provide a form of marriage in certain cases.

IV. for declaring which of certain rules, laws and regulations have the force of law in the Panjáb, and for other purposes.

V. to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sindh.

VI. to amend the law relating to Oaths and Affirmations.

VII. to consolidate and amend the law relating to the Courts in British Burma.

VIII. for imposing duties on Income.

IX. The Indian Contract Act, 1872.

X. An Act for regulating the Procedure of the Courts of Criminal Judicature.

XI. to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

XII. to amend Act XII of 1870 (the Native Passenger Ships Act).

XIII. to amend Act XV of 1859.

XIV. to exempt the Straits Settlements from the Indian Emigration Act, 1871.

XV. to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

XVI. for imposing a duty on certain spirits manufactured in British Burma.

XVII. for postponing the day on which the Code of Criminal Procedure is to come into force.

XVIII. to amend the Indian Evidence Act, 1872.

XIX. An Act to amend the definition of 'Coin' contained in the Indian Penal Code.

XX. to amend Act No. V of 1872.

XXI. to facilitate the admission of Native Military Lunatics into Asylums.

XXII. to explain and amend Act No. X of 1859.

XXIII. for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.

XXIV. to repeal Bombay Regulation XIII of 1827, section thirty-four, clause nine.

XXV. to give the force of law to certain Rules relating to Salt in the Panjáb.

XXVI. to amend the law relating to Opium in the Panjáb.

XXVII. for postponing the day on which the Code of Criminal Procedure is to come into force in the Province of Sindh.

THE INDIAN EVIDENCE ACT, 1872.

CONTENTS.

BENGAL SECRETARIAT LIBRARY.

Preamble.

Part I.

Relevancy of Facts.

Chapter I.—Preliminary.

Section.

1. Short title.
   Extent.
   Commencement of Act.
2. Repeal of enactments.
3. Interpretation-clause.
4. "May presume."
   "Shall presume."
   "Conclusive proof."

Chapter II.—Of the Relevancy of Facts.

5. Evidence may be given of facts in issue and relevant facts.
6. Relevancy of facts forming part of same transaction.
7. Facts which are occasion, cause, or effect of facts in issue.
8. Motive, preparation and previous or subsequent conduct.
9. Facts necessary to explain or introduce relevant facts.
10. Things said or done by conspirator in reference to common design.
11. When facts not otherwise relevant become relevant.
12. In suits for damages, facts tending to enable Court to determine amount are relevant.
13. Facts relevant when right or custom is in question.
14. Facts showing existence of state of mind, or of body or bodily feeling.
15. Facts bearing on question whether act was accidental or intentional.
16. Existence of course of business, when relevant.

Admissions.

17. Admission defined.
18. Admission—
    by party to proceeding or his agent;
    by suitor in representative character;
    by party interested in subject-matter;
    by person from whom interest derived.

19. Admissions

[*Price one rupee three annas and three pies.*]

SECTION.

19. Admissions by persons whose position must be proved as against party to suit.
20. Admissions by persons expressly referred to by party to suit.
21. Proof of admissions against persons making them, and by or on their behalf.
22. When oral admissions as to contents of documents are relevant.
23. Admissions in civil cases, when relevant.
24. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.
25. Confession to Police officer not to be proved.
26. Confession by accused while in custody of Police not to be proved against him.
27. How much of information received from accused, may be proved.
28. Confession made after removal of impression caused by inducement, threat or promise, relevant.
29. Confession otherwise relevant not to become irrelevant because of promise of secrecy, &c.
30. Consideration of proved confession affecting person making it and others jointly under trial for same offence.
31. Admissions not conclusive proof, but may estop.

STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES.

32. Cases in which statement of relevant fact by person who is dead or cannot be found, &c., is relevant.
When it relates to cause of death;
or is made in course of business;
or against interest of maker;
or gives opinion as to public right or custom, or matters of general interest;
or relates to existence of relationship;
or is made in will or deed relating to family affairs;
or in document relating to transaction mentioned in section 13, clause (*a*);
or is made by several persons, and expresses feelings relevant to matter in question.
33. Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.

STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES.

34. Entries in books of account when relevant.
35. Relevancy of entry in public record, made in performance of duty.
36. Relevancy of statements in maps, charts and plans.
37. Relevancy of statement as to fact of public nature, contained in certain Acts or notifications.

SECTION.

38. Relevancy of statements as to any law contained in law-books.

HOW MUCH OF A STATEMENT IS TO BE PROVED.

39. What evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers.

JUDGMENTS OF COURTS OF JUSTICE, WHEN RELEVANT.

40. Previous judgments relevant to bar a second suit or trial.
41. Relevancy of certain judgments in probate, &c., jurisdiction.
42. Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41.
43. Judgments, &c., other than those mentioned in sections 40-42, when relevant.
44. Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.

OPINIONS OF THIRD PERSONS, WHEN RELEVANT.

45. Opinions of experts.
46. Facts bearing upon opinions of experts.
47. Opinion as to handwriting, when relevant.
48. Opinion as to existence of right or custom, when relevant.
49. Opinions as to usages, tenets, &c., when relevant.
50. Opinion on relationship, when relevant.
51. Grounds of opinion, when relevant.

CHARACTER WHEN RELEVANT.

52. In civil cases, character to prove conduct imputed, irrelevant.
53. In criminal cases, previous good character relevant.
54. In criminal proceedings previous conviction relevant, but not previous bad character, except in reply.
55. Character as affecting damages.

Part II.

ON PROOF.

CHAPTER III.—FACTS WHICH NEED NOT BE PROVED.

56. Fact judicially noticeable need not be proved.
57. Facts of which Court must take judicial notice.
58. Facts admitted need not be proved.

CHAPTER IV.—OF ORAL EVIDENCE.

59. Proof of facts by oral evidence.
60. Oral evidence must be direct.

SECTION.

CHAPTER V.—OF DOCUMENTARY EVIDENCE.

61. Proof of contents of documents.
62. Primary evidence.
63. Secondary evidence.
64. Proof of documents by primary evidence.
65. Cases in which secondary evidence relating to documents may be given.
66. Rules as to notice to produce.
67. Proof of signature and handwriting of person alleged to have signed or written document produced.
68. Proof of execution of document required by law to be attested.
69. Proof where no attesting witness found.
70. Admission of execution by party to attested document.
71. Proof when attesting witness denies the execution.
72. Proof of document not required by law to be attested.
73. Comparison of signature, writing or seal with others admitted or proved.

PUBLIC DOCUMENTS.

74. Public documents.
75. Private documents.
76. Certified copies of public documents.
77. Proof of documents by production of certified copies.
78. Proof of other official documents.

PRESUMPTIONS AS TO DOCUMENTS.

79. Presumption as to genuineness of certified copies.
80. Presumption as to documents produced as record of evidence.
81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.
82. Presumption as to document admissible in England without proof of seal or signature.
83. Presumption as to maps or plans made by authority of Government.
84. Presumption as to collections of laws and reports of decisions.
85. Presumption as to powers-of-attorney.
86. Presumption as to certified copies of foreign judicial records.
87. Presumption as to books, maps and charts.
88. Presumption as to telegraphic messages.
89. Presumption as to due execution, &c., of documents not produced.
90. Presumption as to documents thirty years old.

SECTION.

CHAPTER VI.—OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE.

91. Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.
92. Exclusion of evidence of oral agreement.
93. Exclusion of evidence to explain or amend ambiguous document.
94. Exclusion of evidence against application of document to existing facts.
95. Evidence as to document unmeaning in reference to existing facts.
96. Evidence as to application of language which can apply to one only of several persons.
97. Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.
98. Evidence as to meaning of illegible characters, &c.
99. Who may give evidence of agreement varying terms of document.
100. Saving of provisions of Indian Succession Act relating to wills.

Part III.

PRODUCTION AND EFFECT OF EVIDENCE.

CHAPTER VII.—OF THE BURDEN OF PROOF.

101. Burden of proof.
102. On whom burden of proof lies.
103. Burden of proof as to particular fact.
104. Burden of proving fact to be proved to make evidence admissible.
105. Burden of proving that case of accused comes within exceptions.
106. Burden of proving fact especially within knowledge.
107. Burden of proving death of person known to have been alive within thirty years.
108. Burden of proving that person is alive who has not been heard of for seven years.
109. Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.
110. Burden of proof as to ownership.
111. Proof of good faith in transactions where one party is in relation of active confidence.
112. Birth during marriage, conclusive proof of legitimacy.
113. Proof of cession of territory.
114. Court may presume existence of certain facts.

SECTION.

CHAPTER VIII.—ESTOPPEL.

115. Estoppel.
116. Estoppel of tenant;
and of licensee of person in possession.
117. Estoppel of acceptor of bill of exchange, bailee or licensee.

CHAPTER IX.—OF WITNESSES.

118. Who may testify.
119. Dumb witnesses.
120. Parties to civil suit, and their wives or husbands.
Husband or wife of person under criminal trial.
121. Judges and Magistrates.
122. Communications during marriage.
123. Evidence as to affairs of State.
124. Official communications.
125. Information as to commission of offences.
126. Professional communications.
127. Section 126 to apply to interpreters, &c.
128. Privilege not waived by volunteering evidence.
129. Confidential communications with legal advisers.
130. Production of title-deeds of witness not a party.
131. Production of documents which another person, having possession, could refuse to produce.
132. Witness not excused from answering on ground that answer will criminate.
Proviso.
133. Accomplice.
134. Number of witnesses.

CHAPTER X.—OF THE EXAMINATION OF WITNESSES.

135. Order of production and examination of witnesses.
136. Judge to decide as to admissibility of evidence.
137. Examination-in-chief.
Cross-examination.
Re-examination.
138. Order of examinations. Direction of re-examination.
139. Cross-examination of person called to produce a document.
140. Witnesses to character.
141. Leading questions.
142. When they must not be asked.
143. When they may be asked.
144. Evidence as to matters in writing.
145. Cross-examination as to previous statements in writing.
146. Questions lawful in cross-examination.
147. When witness to be compelled to answer.
148. Court to decide when question shall be asked and when witness compelled to answer.

149. Question

SECTION.

149. Question not to be asked without reasonable grounds.
150. Procedure of Court in case of question being asked without reasonable grounds.
151. Indecent and scandalous questions.
152. Questions intended to insult or annoy.
153. Exclusion of evidence to contradict answers to questions testing veracity.
154. Question by party to his own witness.
155. Impeaching credit of witness.
156. Questions tending to corroborate evidence of relevant fact, admissible.
157. Former statements of witness may be proved to corroborate later testimony as to same fact.
158. What matters may be proved in connection with proved statement relevant under section 32 or 33.
159. Refreshing memory.
When witness may use copy of document to refresh memory.
160. Testimony to facts stated in documents mentioned in section 159.
161. Right of adverse party as to writing used to refresh memory.
162. Production of documents.
Translation of documents.
163. Giving, as evidence, of document called for and produced on notice.
164. Using, as evidence, of document production of which was refused on notice.
165. Judge's power to put questions or order production.
166. Power of jury or assessors to put questions.

CHAPTER XI.—OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE.

167. No new trial for improper admission or rejection of evidence.

SCHEDULE.—Enactments repealed.

ACT No. I. OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 15*th March* 1872).

The Indian Evidence Act, 1872.

Preamble.

WHEREAS it is expedient to consolidate, define and amend the Law of Evidence; It is hereby enacted as follows:—

PART I.

RELEVANCY OF FACTS.

CHAPTER I.—PRELIMINARY.

Short title.

1. This Act may be called "The Indian Evidence Act, 1872:"

Extent.

It extends to the whole of British India, and applies to all judicial proceedings in or before any Court, including Courts Martial, but not to affidavits presented to any Court or Officer, nor to proceedings before an arbitrator;

Commencement of Act.

and it shall come into force on the first day of September 1872:

Repeal of enactments.

2. On and from that day the following laws shall be repealed:—

(1.) All rules of evidence not contained in any Statute, Act or Regulation in force in any part of British India:

(2.) All such rules, laws and regulations as have acquired the force of law under the twenty-fifth section of 'The Indian Councils' Act, 1861,' in so far as they relate to any matter herein provided for; and

(3.) The enactments mentioned in the schedule hereto, to the extent specified in the third column of the said schedule.

But

But nothing herein contained shall be deemed to affect any provision of any Statute, Act or Regulation in force in any part of British India and not hereby expressly repealed.

3. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:— Interpretation-clause.

"Court" includes all Judges and Magistrates and all persons, except arbitrators, legally authorized to take evidence. "Court."

"Fact" means and includes— "Fact."

(1) any thing, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

Illustrations.

(*a.*) That there are certain objects arranged in a certain order in a certain place, is a fact.

(*b.*) That a man heard or saw something is a fact.

(*c.*) That a man said certain words is a fact.

(*d.*) That a man holds a certain opinion, has a certain intention, acts in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(*e.*) That a man has a certain reputation is a fact.

One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act relating to the relevancy of facts. "Relevant."

The expression "Facts in issue" means and includes— "Facts in issue."

any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature, or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.

Explanation.—Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue, is a fact in issue.

Illustrations.

Illustrations.

A is accused of the murder of B.

At A's trial the following facts may be in issue:—

That A caused B's death;

That A intended to cause B's death;

That A had received grave and sudden provocation from B;

That A, at the time of doing the act which caused B's death, was, by reason of unsoundness of mind, incapable of knowing its nature.

"Document." "Document" means any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

Illustrations.

A writing is a document:

Words printed, lithographed or photographed are documents:

A map or plan is a document:

An inscription on a metal plate or stone is a document:

A caricature is a document.

"Evidence." "Evidence" means and includes—

(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry;

such statements are called oral evidence:

(2) all documents produced for the inspection of the Court;

such documents are called documentary evidence.

"Proved." A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.

"Disproved." A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.

A fact

A fact is said not to be proved when it is neither proved nor disproved. "Not proved."

4. Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it: "May presume."

Whenever it is directed by this Act that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved: "Shall presume."

When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it. "Conclusive proof."

CHAPTER II.—OF THE RELEVANCY OF FACTS.

5. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others. Evidence may be given of facts in issue and relevant facts.

Explanation.—This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure.

Illustration.

(*a.*) A is tried for the murder of B by beating him with a club with the intention of causing his death.

At A's trial the following facts are in issue:—

A's beating B with the club;

A's causing B's death by such beating;

A's intention to cause B's death.

(*b.*) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.

6. Facts which, though not in issue, are so connected with a fact in issue as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places. Relevancy of facts forming part of same transaction.

Illustrations.

Illustrations.

(*a*.) A is accused of the murder of B by beating him. Whatever was said or done by A or B or the by-standers at the beating, or so shortly before or after it as to form part of the transaction, is a relevant fact.

(*b*.) A is accused of waging war against the Queen by taking part in an armed insurrection in which property is destroyed, troops are attacked, and gaols are broken open. The occurrence of these facts is relevant, as forming part of the general transaction, though A may not have been present at all of them.

(*c*.) A sues B for a libel contained in a letter forming part of a correspondence. Letters between the parties relating to the subject out of which the libel arose, and forming part of the correspondence in which it is contained, are relevant facts, though they do not contain the libel itself.

(*d*.) The question is, whether certain goods ordered from B were delivered to A. The goods were delivered to several intermediate persons successively. Each delivery is a relevant fact.

Facts which are occasion, cause, or effect of facts in issue.

7. Facts which are the occasion, cause, or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Illustrations.

(*a*.) The question is, whether A robbed B.

The facts that shortly before the robbery, B went to a fair with money in his possession, and that he showed it, or mentioned the fact that he had it, to third persons, are relevant.

(*b*.) The question is, whether A murdered B.

Marks on the ground, produced by a struggle at or near the place where the murder was committed, are relevant facts.

(*c*.) The question is, whether A poisoned B.

The state of B's health before the symptoms ascribed to poison, and habits of B, known to A, which afforded an opportunity for the administration of poison, are relevant facts.

Motive, preparation and previous or subsequent conduct.

8. Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.

The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding,

proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.

Explanation 1.—The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.

Explanation 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

Illustrations.

(*a.*) A is tried for the murder of B.

The facts that A murdered C, that B knew that A had murdered C, and that B had tried to extort money from A by threatening to make his knowledge public, are relevant.

(*b.*) A sues B upon a bond for the payment of money. B denies the making of the bond.

The fact that, at the time when the bond was alleged to be made, B required money for a particular purpose, is relevant.

(*c.*) A is tried for the murder of B by poison.

The fact that, before the death of B, A procured poison similar to that which was administered to B, is relevant.

(*d.*) The question is, whether a certain document is the will of A.

The facts that, not long before the date of the alleged will, A made inquiry into matters to which the provisions of the alleged will relate; that he consulted wills in reference to making the will, and that he caused drafts of other wills to be prepared, of which he did not approve, are relevant.

(*e.*) A is accused of a crime.

The facts that, either before, or at the time of, or after the alleged crime, A provided evidence which would tend to give to the facts of the case an appearance favourable to himself, or that he destroyed or concealed evidence, or prevented the presence or procured the absence of persons who might have been witnesses, or suborned persons to give false evidence respecting it, are relevant.

(*f.*) The question is, whether A robbed B.

The facts that, after B was robbed, C said in A's presence—'the police are coming to look for the man who robbed B,' and that immediately afterwards A ran away, are relevant.

(*g.*) The question is, whether A owes B rupees 10,000.

The

The facts that A asked C to lend him money, and that D said to C in A's presence and hearing —'I advise you not to trust A, for he owes B 10,000 rupees,' and that A went away without making any answer, are relevant facts.

(*h.*) The question is, whether A committed a crime.

The fact that A absconded after receiving a letter warning him that inquiry was being made for the criminal, and the contents of the letter, are relevant.

(*i.*) A is accused of a crime.

The facts that, after the commission of the alleged crime, he absconded, or was in possession of property or the proceeds of property acquired by the crime, or attempted to conceal things which were or might have been used in committing it, are relevant.

(*j.*) The question is, whether A was ravished.

The facts that, shortly after the alleged rape, she made a complaint relating to the crime, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that, without making a complaint, she said that she had been ravished is not relevant as conduct under this section, though it may be relevant

as a dying declaration under section thirty-two, clause (one), or

as corroborative evidence under section one hundred and fifty-seven.

(*k.*) The question is, whether A was robbed.

The fact that soon after the alleged robbery, he made a complaint relating to the offence, the circumstances under which, and the terms in which, the complaint was made, are relevant.

The fact that he said he had been robbed, without making any complaint, is not relevant as conduct under this section, though it may be relevant

as a dying declaration under section thirty-two, clause (one), or

as corroborative evidence under section one hundred and fifty-seven.

Facts necessary to explain or introduce relevant facts.

9. Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or relevant fact, or which establish the identity of any thing or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Illustrations.

(*a.*) The question is, whether a given document is the will of A.

The

The state of A's property and of his family at the date of the alleged will may be relevant facts.

(*b.*) A sues B for a libel imputing disgraceful conduct to A; B affirms that the matter alleged to be libellous is true.

The position and relations of the parties at the time when the libel was published may be relevant facts as introductory to the facts in issue.

The particulars of a dispute between A and B about a matter unconnected with the alleged libel are irrelevant, though the fact that there was a dispute may be relevant if it affected the relations between A and B.

(*c.*) A is accused of a crime.

The fact that, soon after the commission of the crime, A absconded from his house, is relevant, under section eight, as conduct subsequent to and affected by facts in issue.

The fact that, at the time when he left home, he had sudden and urgent business at the place to which he went, is relevant, as tending to explain the fact that he left home suddenly.

The details of the business on which he left are not relevant, except in so far as they are necessary to show that the business was sudden and urgent.

(*d.*) A sues B for inducing C to break a contract of service made by him with A. C, on leaving A's service, says to A—'I am leaving you because B has made me a better offer.' This statement is a relevant fact as explanatory of C's conduct, which is relevant as a fact in issue.

(*e.*) A, accused of theft, is seen to give the stolen property to B, who is seen to give it to A's wife. B says, as he delivers it—'A says you are to hide this.' B's statement is relevant as explanatory of a fact which is part of the transaction.

(*f.*) A is tried for a riot and is proved to have marched at the head of a mob. The cries of the mob are relevant as explanatory of the nature of the transaction.

Things said or done by conspirator in reference to common design.

10. Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, any thing said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

Illustration.

Illustration.

Reasonable ground exists for believing that A has joined in a conspiracy to wage war against the Queen.

The facts that B procured arms in Europe for the purpose of the conspiracy, C collected money in Calcutta for a like object, D persuaded persons to join the conspiracy in Bombay, E published writings advocating the object in view at Agra, and F transmitted from Delhi to G at Cabul the money which C had collected at Calcutta, and the contents of a letter written by H giving an account of the conspiracy, are each relevant, both to prove the existence of the conspiracy, and to prove A's complicity in it, although he may have been ignorant of all of them, and although the persons by whom they were done were strangers to him, and although they may have taken place before he joined the conspiracy or after he left it.

When facts not otherwise relevant become relevant.

11. Facts not otherwise relevant are relevant—

(1) if they are inconsistent with any fact in issue or relevant fact;

(2) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Illustrations.

(*a.*) The question is, whether A committed a crime at Calcutta on a certain day.

The fact that, on that day, A was at Lahore is relevant.

The fact that, near the time when the crime was committed, A was at a distance from the place where it was committed, which would render it highly improbable, though not impossible, that he committed it, is relevant.

(*b.*) The question is, whether A committed a crime.

The circumstances are such that the crime must have been committed either by A, B, C or D. Every fact which shows that the crime could have been committed by no one else, and that it was not committed by either B, C or D, is relevant.

In suits for damages, facts tending to enable Court to determine amount are relevant.

12. In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded is relevant.

13. Where

13. Where the question is as to the existence of any right or custom, the following facts are relevant— Facts relevant when right or custom is in question.

(*a.*) Any transaction by which the right or custom in question was created, claimed, modified, recognized, asserted or denied, or which was inconsistent with its existence:

(*b.*) Particular instances in which the right or custom was claimed, recognized, or exercised, or in which its exercise was disputed, asserted or departed from.

Illustration.

The question is, whether A has a right to a fishery. A deed conferring the fishery on A's ancestors, a mortgage of the fishery by A's father, a subsequent grant of the fishery by A's father, irreconcileable with the mortgage, particular instances in which A's father exercised the right, or in which the exercise of the right was stopped by A's neighbours, are relevant facts.

14. Facts showing the existence of any state of mind—such as intention, knowledge, good faith, negligence, rashness, ill-will or good-will towards any particular person, or showing the existence of any state of body or bodily feeling—are relevant, when the existence of any such state of mind or body or bodily feeling, is in issue or relevant. Facts showing existence of state of mind, or of body or bodily feeling.

Explanation.—A fact relevant as showing the existence of a relevant state of mind must show that it exists, not generally, but in reference to the particular matter in question.

Illustrations.

(*a.*) A is accused of receiving stolen goods knowing them to be stolen. It is proved that he was in possession of a particular stolen article.

The fact that, at the same time, he was in possession of many other stolen articles is relevant, as tending to show that he knew each and all of the articles of which he was in possession to be stolen.

(*b.*) A is accused of fraudulently delivering to another person a piece of counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

The fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit coin, is relevant.

(*c*). A

(*c.*) A sues B for damage done by a dog of B's, which B knew to be ferocious.

The facts that the dog had previously bitten X, Y and Z, and that they had made complaints to B, are relevant.

(*d.*) The question is, whether A, the acceptor of a bill of exchange, knew that the name of the payee was fictitious.

The fact that A had accepted other bills drawn in the same manner before they could have been transmitted to him by the payee if the payee had been a real person, is relevant, as showing that A knew that the payee was a fictitious person.

(*e.*) A is accused of defaming B by publishing an imputation intended to harm the reputation of B.

The fact of previous publications by A respecting B, showing ill-will on the part of A towards B, is relevant, as proving A's intention to harm B's reputation by the particular publication in question.

The facts that there was no previous quarrel between A and B, and that A repeated the matter complained of as he heard it, are relevant as showing that A did not intend to harm the reputation of B.

(*f.*) A is sued by B for fraudulently representing to B that C was solvent, whereby B, being induced to trust C, who was insolvent, suffered loss.

The fact that, at the time when A represented C to be solvent, C was supposed to be solvent by his neighbours and by persons dealing with him, is relevant, as showing that A made the representation in good faith.

(*g.*) A is sued by B for the price of work done by B, upon a house of which A is owner, by the order of C, a contractor.

A's defence is that B's contract was with C.

The fact that A had paid C for the work in question is relevant, as proving that A did, in good faith, make over to C the management of the work in question, so that C was in a position to contract with B on C's own account, and not as agent for A.

(*h.*) A is accused of the dishonest misappropriation of property which he had found, and the question is whether, when he appropriated it, he believed in good faith that the real owner could not be found.

The fact that public notice of the loss of the property had been given in the place where A was, is relevant, as showing that A did not in good faith believe that the real owner of the property could not be found.

The fact that A knew, or had reason to believe, that the notice was given fraudulently by C, who had heard of the loss of the property and wished to set up a false claim to it, is relevant, as

showing

showing that the fact that A knew of the notice did not disprove A's good faith.

(*i.*) A is charged with shooting at B with intent to kill him. In order to show A's intent, the fact of A's having previously shot at B may be proved.

(*j.*) A is charged with sending threatening letters to B. Threatening letters previously sent by A to B may be proved, as showing the intention of the letters.

(*k.*) The question is, whether A has been guilty of cruelty towards B, his wife.

Expressions of their feeling towards each other shortly before or after the alleged cruelty, are relevant facts.

(*l.*) The question is, whether A's death was caused by poison.

Statements made by A during his illness as to his symptoms, are relevant facts.

(*m.*) The question is, what was the state of A's health at the time when an assurance on his life was effected.

Statements made by A as to the state of his health at or near the time in question, are relevant facts.

(*n.*) A sues B for negligence in providing him with a carriage for hire not reasonably fit for use, whereby A was injured.

The fact that B's attention was drawn on other occasions to the defect of that particular carriage, is relevant.

The fact that B was habitually negligent about the carriages which he let to hire, is irrelevant.

(*o.*) A is tried for the murder of B by intentionally shooting him dead.

The fact that A, on other occasions, shot at B is relevant, as showing his intention to shoot B.

The fact that A was in the habit of shooting at people with intent to murder them, is irrelevant.

(*p.*) A is tried for a crime.

The fact that he said something indicating an intention to commit that particular crime, is relevant.

The fact that he said something indicating a general disposition to commit crimes of that class is irrelevant.

15. When there is a question whether an act was accidental or intentional, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Facts bearing on question whether act was accidental or intentional.

Illustrations.

Illustrations.

(*a*.) A is accused of burning down his house in order to obtain money for which it is insured.

The facts that A lived in several houses successively, each of which was insured, in each of which a fire occurred, and after each of which fires A received payment from a different insurance office, are relevant, as tending to show that the fires were not accidental.

(*b*). A is employed to receive money from the debtors of B. It is A's duty to make entries in a book showing the amounts received by him. He makes an entry showing that on a particular occasion he received less than he really did receive.

The question is, whether this false entry was accidental or intentional.

The facts that other entries made by A in the same book are false, and that the false entry is in each case in favour of A, are relevant.

(*c*.) A is accused of fraudulently delivering to B a counterfeit rupee.

The question is, whether the delivery of the rupee was accidental.

The facts that, soon before or soon after the delivery to B, A delivered counterfeit rupees to C, D and E are relevant, as showing that the delivery to B was not accidental.

Existence of course of business when relevant.

16. When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Illustrations.

(*a*.) The question is, whether a particular letter was despatched.

The facts that it was the ordinary course of business for all letters put in a certain place to be carried to the post, and that that particular letter was put in that place, are relevant.

(*b*.) The question is, whether a particular letter reached A. The facts that it was posted in due course, and was not returned through the Dead Letter Office, are relevant.

ADMISSIONS.

Admission defined.

17. An admission is a statement, oral or documentary, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

18. Statements

18. Statements made by a party to the proceeding, or by an agent to any such party, whom the Court regards, under the circumstances of the case, as expressly or impliedly authorized by him to make them, are admissions. Admission—by party to proceeding or his agent;

Statements made by parties to suits, suing or sued in a representative character, are not admissions, unless they were made while the party making them held that character. by suitor in representative character;

Statements made by—

(1) persons who have any proprietary or pecuniary interest in the subject-matter of the proceeding, and who make the statement in their character of persons so interested, or by party interested in subject-matter;

(2) persons from whom the parties to the suit have derived their interest in the subject-matter of the suit, by person from whom interest derived.

are admissions, if they are made during the continuance of the interest of the persons making the statements.

19. Statements made by persons whose position or liability it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability. Admissions by persons whose position must be proved as against party to suit.

Illustration.

A undertakes to collect rents for B.

B sues A for not collecting rent due from C to B.

A denies that rent was due from C to B.

A statement by C that he owed B rent is an admission, and is a relevant fact as against A, if A denies that C did owe rent to B.

20. Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions. Admissions by persons expressly referred to by party to suit.

Illustration

The question is, whether a horse sold by A to B is sound.

A says to B—'Go and ask C, C knows all about it.' C's statement is an admission.

21. Admissions

Proof of admissions against persons making them, and by or on their behalf.

21. Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases:—

(1.) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section thirty-two.

(2.) An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.

(3.) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

Illustrations.

(*a.*) The question between A and B is, whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged.

A may prove a statement by B that the deed is genuine, and B may prove a statement by A that the deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.

(*b.*) A, the Captain of a ship, is tried for casting her away.

Evidence is given to show that the ship was taken out of her proper course.

A produces a book kept by him in the ordinary course of his business, showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under section thirty-two, clause (two).

(*c.*) A is accused of a crime committed by him at Calcutta.

He produces a letter written by himself and dated at Lahore on that day, and bearing the Lahore post-mark of that day.

The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under section thirty-two, clause (two).

(*d.*) A

(*d.*) A is accused of receiving stolen goods knowing them to be stolen.

He offers to prove that he refused to sell them below their value.

A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.

(*e.*) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit.

He offers to prove that he asked a skilful person to examine the coin, as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine.

A may prove these facts for the reasons stated in the last preceding illustration.

When oral admissions as to contents of documents are relevant.

22. Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

Admissions in civil cases, when relevant.

23. In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation.—Nothing in this section shall be taken to exempt any barrister, pleader, attorney or vakíl from giving evidence of any matter of which he may be compelled to give evidence under section one hundred and twenty-six.

Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.

24. A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise, having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

25. No

Confession to Police officer not to be proved.

25. No confession made to a Police officer, shall be proved as against a person accused of any offence.

Confession by accused while in custody of Police not to be proved against him.

26. No confession made by any person whilst he is in the custody of a Police officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

How much of information received from accused may be proved.

27. Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a Police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.

Confession made after removal of impression caused by inducement, threat or promise, relevant.

28. If such a confession as is referred to in section twenty-four is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.

Confession otherwise relevant not to become irrelevant because of promise of secrecy, &c.

29. If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

Consideration of proved confession affecting person making it and others jointly under trial for same offence.

30. When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.

Illustrations.

(*a.*) A and B are jointly tried for the murder of C. It is proved that A said,—'B and I murdered C.' The Court may consider the effect of this confession as against B.

(*b.*) A

(*b.*) A is on his trial for the murder of C. There is evidence to show that C was murdered by A and B, and that B said,—'A and I murdered C.'

This statement may not be taken into consideration by the Court against A, as B is not being jointly tried.

31. Admissions are not conclusive proof of the matters admitted, but they may operate as estoppels under the provisions hereinafter contained.

Admissions not conclusive proof, but may estop.

STATEMENTS BY PERSONS WHO CANNOT BE CALLED AS WITNESSES.

32. Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which, under the circumstances of the case, appears to the Court unreasonable, are themselves relevant facts in the following cases:—

Cases in which statement of relevant fact by person who is dead or cannot be found, &c., is relevant.

(1.) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question.

When it relates to cause of death;

Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.

(2.) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him, or of the date of a letter or other document usually dated, written or signed by him.

or is made in course of business;

(3.) When the statement is against the pecuniary or proprietary interest of the person making it, or when

or against interest of maker;

when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.

or gives opinion as to public right or custom, or matters of general interest;

(4.) When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen.

or relates to existence of relationship;

(5.) When the statement relates to the existence of any relationship between persons as to whose relationship the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.

or is made in will or deed relating to family affairs;

(6.) When the statement relates to the existence of any relationship between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.

or in document relating to transaction mentioned in section 13, clause (*a*);

(7.) When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in section thirteen, clause (*a*).

or is made by several persons, and expresses feelings relevant to matter in question.

(8.) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

Illustrations.

(*a*.) The question is, whether A was murdered by B; or

A dies of injuries received in a transaction in the course of which she was ravished. The question is, whether she was ravished by B; or

The question is, whether A was killed by B under such circumstances that a suit would lie against B by A's widow.

Statements made by A as to the cause of his or her death, referring respectively to the murder, the rape, and the actionable wrong under consideration, are relevant facts.

(*b*.) The question is as to the date of A's birth.

An

An entry in the diary of a deceased surgeon, regularly kept in the course of business, stating that, on a given day, he attended A's mother and delivered her of a son, is a relevant fact.

(*c.*) The question is, whether A was in Calcutta on a given day.

A statement in the diary of a deceased solicitor, regularly kept in the course of business, that, on a given day, the solicitor attended A at a place mentioned, in Calcutta, for the purpose of conferring with him upon specified business, is a relevant fact.

(*d.*) The question is, whether a ship sailed from Bombay harbour on a given day.

A letter written by a deceased member of a merchant's firm, by which she was chartered, to their correspondents in London to whom the cargo was consigned, stating that the ship sailed on a given day from Bombay harbour, is a relevant fact.

(*e.*) The question is, whether rent was paid to A for certain land.

A letter from A's deceased agent to A, saying that he had received the rent on A's account and held it at A's orders, is a relevant fact.

(*f.*) The question is, whether A and B were legally married.

The statement of a deceased clergyman that he married them under such circumstances that the celebration would be a crime, is relevant.

(*g.*) The question is, whether A, a person who cannot be found, wrote a letter on a certain day. The fact that a letter written by him is dated on that day, is relevant.

(*h.*) The question is, what was the cause of the wreck of a ship.

A protest made by the Captain, whose attendance cannot be procured, is a relevant fact.

(*i.*) The question is, whether a given road is a public way.

A statement by A, a deceased headman of the village, that the road was public, is a relevant fact.

(*j.*) The question is, what was the price of grain on a certain day in a particular market. A statement of the price, made by a deceased banya in the ordinary course of his business, is a relevant fact.

(*k.*) The question is, whether A, who is dead, was the father of B.

A statement by A that B was his son, is a relevant fact.

(*l.*) The question is, what was the date of the birth of A.

A letter from A's deceased father to a friend, announcing the birth of A on a given day, is a relevant fact.

(*m.*) The

(*m.*) The question is, whether, and when, A and B were married.

An entry in a memorandum-book by C, the deceased father of B, of his daughter's marriage with A on a given date, is a relevant fact.

(*n.*) A sues B for a libel expressed in a painted caricature exposed in a shop window. The question is as to the similarity of the caricature and its libellous character. The remarks of a crowd of spectators on these points may be proved.

Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.

33. Evidence given by a witness in a judicial proceeding, or before any person authorized by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable.

Provided—

that the proceeding was between the same parties or their representatives in interest;

that the adverse party in the first proceeding had the right and opportunity to cross-examine;

that the questions in issue were substantially the same in the first as in the second proceeding.

Explanation.—A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

STATEMENTS MADE UNDER SPECIAL CIRCUMSTANCES.

Entries in books of account when relevant.

34. Entries in books of account, regularly kept in the course of business, are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.

Illustration.

A sues B for Rs. 1,000, and shows entries in his account-books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

35. An

35. An entry in any public or other official book, register, or record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register, or record is kept, is itself a relevant fact.

Relevancy of entry in public record, made in performance of duty.

36. Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

Relevancy of statements in maps, charts and plans.

37. When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Act of Parliament, or in any Act of the Governor General of India in Council, or of the Governors in Council of Madras or Bombay, or of the Lieutenant-Governor in Council of Bengal, or in a notification of the Government appearing in the *Gazette of India*, or in the Gazette of any Local Government, or in any printed paper purporting to be the *London Gazette* or the *Government Gazette* of any colony or possession of the Queen, is a relevant fact.

Relevancy of statement as to fact of public nature, contained in certain Acts or notifications.

38. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.

Relevancy of statements as to any law contained in law-books.

HOW MUCH OF A STATEMENT IS TO BE PROVED.

39. When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, book, or series of letters or

What evidence to be given when statement forms part of a conversation, document, book, or series of letters or papers.

OPINIONS OF THIRD PERSONS, WHEN RELEVANT.

Opinions of experts.

45. When the Court has to form an opinion upon a point of foreign law, or of science or art, or as to identity of handwriting, the opinions upon that point of persons specially skilled in such foreign law, science or art, are relevant facts.

Such persons are called experts.

Illustrations.

(*a.*) The question is, whether the death of A was caused by poison.

The opinions of experts as to the symptoms produced by the poison by which A is supposed to have died, are relevant.

(*b.*) The question is, whether A, at the time of doing a certain act, was, by reason of unsoundness of mind, incapable of knowing the nature of the act, or that he was doing what was either wrong or contrary to law.

The opinions of experts upon the question whether the symptoms exhibited by A commonly show unsoundness of mind, and whether such unsoundness of mind usually renders persons incapable of knowing the nature of the acts which they do, or of knowing that what they do is either wrong or contrary to law, are relevant.

(*c.*) The question is, whether a certain document was written by A. Another document is produced which is proved or admitted to have been written by A.

The opinions of experts on the question whether the two documents were written by the same person or by different persons, are relevant.

Facts bearing upon opinions of experts.

46. Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

Illustrations.

(*a.*) The question is, whether A was poisoned by a certain poison.

The fact that other persons, who were poisoned by that poison, exhibited certain symptoms which experts affirm or deny to be the symptoms of that poison, is relevant.

(*b.*) The question is, whether an obstruction to a harbour is caused by a certain sea-wall.

The fact that other harbours similarly situated in other respects, but where there were no such sea-walls, began to be obstructed at about the same time, is relevant.

47. When

47. When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.

Opinion as to handwriting, when relevant

Explanation.—A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

Illustration.

The question is, whether a given letter is in the handwriting of A, a merchant in London.

B is a merchant in Calcutta, who has written letters addressed to A and received letters purporting to be written by him. C is B's clerk, whose duty it was to examine and file B's correspondence. D is B's broker, to whom B habitually submitted the letters purporting to be written by A for the purpose of advising with him thereon.

The opinions of B, C and D on the question whether the letter is in the handwriting of A are relevant; though neither B, C nor D ever saw A write.

48. When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant.

Opinion as to existence of right or custom, when relevant.

Explanation.—The expression 'general custom or right' includes customs or rights common to any considerable class of persons.

Illustration.

The right of the villagers of a particular village to use the water of a particular well is a general right within the meaning of this section.

49. When

Opinions as to usages, tenets, &c., when relevant.

49. When the Court has to form an opinion as to—

the usages and tenets of any body of men or family,

the constitution and government of any religious or charitable foundation, or

the meaning of words or terms used in particular districts or by particular classes of people,

the opinions of persons having special means of knowledge thereon, are relevant facts.

Opinion on relationship, when relevant.

50. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to prove a marriage in proceedings under the Indian Divorce Act, or in prosecutions under section four hundred and ninety-four, four hundred and ninety-five, four hundred and ninety-seven or four hundred and ninety-eight of the Indian Penal Code.

Illustrations.

(*a.*) The question is, whether A and B were married.

The fact that they were usually received and treated by their friends as husband and wife, is relevant.

(*b.*) The question is, whether A was the legitimate son of B. The fact that A was always treated as such by members of the family, is relevant.

Grounds of opinion, when relevant.

51. Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

Illustration.

An expert may give an account of experiments performed by him for the purpose of forming his opinion.

CHARACTER WHEN RELEVANT.

In civil cases character to prove conduct imputed, irrelevant.

52. In civil cases, the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him, is irrelevant, except in so far as such character appears from facts otherwise relevant.

53. In

53. In criminal proceedings, the fact that the person accused is of a good character, is relevant.

In criminal cases, previous good character relevant.

54. In criminal proceedings, the fact that the accused person has been previously convicted of any offence is relevant; but the fact that he has a bad character is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.

In criminal proceedings previous conviction relevant, but not previous bad character, except in reply.

Explanation.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.

55. In civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.

Character as affecting damages.

Explanation.—In sections fifty-two, fifty-three, fifty-four and fifty-five, the word 'character' includes both reputation and disposition; but evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition were shown.

PART II.

ON PROOF.

CHAPTER III.—FACTS WHICH NEED NOT BE PROVED.

56. No fact of which the Court will take judicial notice need be proved.

Fact judicially noticeable need not be proved.

57. The Court shall take judicial notice of the following facts:—

Facts of which Court must take judicial notice.

(1.) All laws or rules having the force of law now or heretofore in force, or hereafter to be in force, in any part of British India:

(2.) All public Acts passed or hereafter to be passed by Parliament, and all local and personal Acts directed by Parliament to be judicially noticed:

(3.) Articles of War for Her Majesty's Army or Navy:

(4.) The course of proceeding of Parliament and of the Councils for the purposes of making Laws and Regulations

Regulations established under the Indian Councils Act, or any other law for the time being relating thereto :

Explanation.—The word 'Parliament,' in clauses (two) and (four), includes—

1. The Parliament of the United Kingdom of Great Britain and Ireland ;

2. The Parliament of Great Britain ;

3. The Parliament of England ;

4. The Parliament of Scotland, and

5. The Parliament of Ireland :

(5.) The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland :

(6.) All seals of which English Courts take judicial notice : the seals of all the Courts of British India, and of all Courts out of British India, established by the authority of the Governor General or any Local Government in Council : the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorized to use by any Act of Parliament or other Act or Regulation having the force of law in British India :

(7.) The accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any part of British India, if the fact of their appointment to such office is notified in the *Gazette of India*, or in the official Gazette of any Local Government :

(8.) The existence, title, and national flag of every State or Sovereign recognized by the British Crown :

(9.) The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the official Gazette :

(10.) The territories under the dominion of the British Crown :

(11.) The commencement, continuance, and termination of hostilities between the British Crown and any other State or body of persons :

(12.) The

(12.) The names of the members and officers of the Court, and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of all advocates, attornies, proctors, vakíls, pleaders and other persons authorized by law to appear or act before it:

(13.) The rule of the road.

In all these cases, and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.

If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so, unless and until such person produces any such book or document as it may consider necessary to enable it to do so.

Facts admitted need not be proved.

58. No fact need be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

CHAPTER IV.—OF ORAL EVIDENCE.

Proof of facts by oral evidence.

59. All facts, except the contents of documents, may be proved by oral evidence.

Oral evidence must be direct.

60. Oral evidence must, in all cases, whatever, be direct; That is to say—

If it refers to a fact which could be seen, it must be the evidence of a witness who says he saw it;

If it refers to a fact which could be heard, it must be the evidence of a witness who says he heard it;

If it refers to a fact which could be perceived by any other sense or in any other manner, it must be the evidence of a witness who says he perceived it by that sense or in that manner;

If it refers to an opinion or to the grounds on which that opinion is held, it must be the evidence of

of the person who holds that opinion on those grounds:

Provided that the opinions of experts expressed in any treatise commonly offered for sale, and the grounds on which such opinions are held, may be proved by the production of such treatises if the author is dead or cannot be found, or has become incapable of giving evidence, or cannot be called as a witness without an amount of delay or expense which the Court regards as unreasonable:

Provided also that, if oral evidence refers to the existence or condition of any material thing other than a document, the Court may, if it thinks fit, require the production of such material thing for its inspection.

CHAPTER V.—OF DOCUMENTARY EVIDENCE.

Proof of contents of documents.

61. The contents of documents may be proved either by primary or by secondary evidence.

Primary evidence.

62. Primary evidence means the document itself produced for the inspection of the Court.

Explanation 1.—Where a document is executed in several parts, each part is primary evidence of the document:

Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.

Explanation 2.—Where a number of documents are all made by one uniform process, as in the case of printing, lithography, or photography, each is primary evidence of the contents of the rest; but where they are all copies of a common original, they are not primary evidence of the contents of the original.

Illustration.

A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.

63. Secondary

63. Secondary evidence means and includes— Secondary evidence.

(1.) Certified copies given under the provisions hereinafter contained;

(2.) Copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;

(3.) Copies made from or compared with the original;

(4.) Counterparts of documents as against the parties who did not execute them;

(5.) Oral accounts of the contents of a document given by some person who has himself seen it.

Illustrations.

(*a.*) A photograph of an original is secondary evidence of its contents, though the two have not been compared, if it is proved that the thing photographed was the original.

(*b.*) A copy compared with a copy of a letter made by a copying machine is secondary evidence of the contents of the letter, if it is shown that the copy made by the copying machine was made from the original.

(*c.*) A copy transcribed from a copy, but afterwards compared with the original, is secondary evidence; but the copy not so compared is not secondary evidence of the original, although the copy from which it was transcribed was compared with the original.

(*d.*) Neither an oral account of a copy compared with the original, nor an oral account of a photograph or machine-copy of the original, is secondary evidence of the original.

64. Documents must be proved by primary evidence except in the cases hereinafter mentioned. Proof of documents by primary evidence.

65. Secondary evidence may be given of the existence, condition, or contents of a document in the following cases:— Cases in which secondary evidence relating to documents may be given.

(*a.*) When the original is shown or appears to be in the possession or power

of the person against whom the document is sought to be proved, or

of any person out of reach of, or not subject to, the process of the Court, or

of

of any person legally bound to produce it,

and when, after the notice mentioned in section sixty-six, such person does not produce it;

(*b.*) When the existence, condition or contents of the original have been proved to be admitted in writing by the person against whom it is proved or by his representative in interest;

(*c.*) When the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any other reason not arising from his own default or neglect, produce it in reasonable time;

(*d.*) When the original is of such a nature as not to be easily moveable;

(*e.*) When the original is a public document within the meaning of section seventy-four;

(*f.*) When the original is a document of which a certified copy is permitted by this Act, or by any other law in force in British India, to be given in evidence;

(*g.*) When the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.

In cases (*a*), (*c*) and (*d*), any secondary evidence of the contents of the document is admissible.

In case (*b*), the written admission is admissible.

In case (*e*) or (*f*), a certified copy of the document, but no other kind of secondary evidence, is admissible.

In case (*g*), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.

Rules as to notice to produce.

66. Secondary evidence of the contents of the documents referred to in section sixty-five, clause (*a*), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the

the Court considers reasonable under the circumstances of the case:

Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it:—

(1.) When the document to be proved is itself a notice;

(2.) When, from the nature of the case, the adverse party must know that he will be required to produce it;

(3.) When it appears or is proved that the adverse party has obtained possession of the original by fraud or force;

(4.) When the adverse party or his agent has the original in Court;

(5.) When the adverse party or his agent has admitted the loss of the document;

(6.) When the person in possession of the document is out of reach of, or not subject to, the process of the Court.

Proof of signature and handwriting of person alleged to have signed or written document produced.

67. If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.

Proof of execution of document required by law to be attested.

68. If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence.

Proof where no attesting witness found.

69. If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.

70. The

Admission of execution by party to attested document.

70. The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.

Proof when attesting witness denies the execution.

71. If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.

Proof of document not required by law to be attested.

72. An attested document not required by law to be attested may be proved as if it was unattested.

Comparison of signature, writing or seal with others admitted or proved.

73. In order to ascertain whether a signature, writing, or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing, or seal has not been produced or proved for any other purpose.

The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.

PUBLIC DOCUMENTS.

Public documents.

74. The following documents are public documents:—

1. Documents forming the acts, or records of the acts—

(i) of the sovereign authority,

(ii) of official bodies and tribunals, and

(iii) of public officers, legislative, judicial and executive, whether of British India, or of any other part of Her Majesty's dominions, or of a foreign country.

2. Public records kept in British India of private documents.

Private documents.

75. All other documents are private.

Certified copies of public documents.

76. Every public officer having the custody of a public document, which any person has a right to inspect,

inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorized by law to make use of a seal; and such copies so certified shall be called certified copies.

Explanation.—Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

Proof of documents by production of certified copies.

77. Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

Proof of other official documents.

78. The following public documents may be proved as follows:—

(1.) Acts, orders or notifications of the Executive Government of British India in any of its departments, or of any Local Government or any department of any Local Government,

by the records of the departments, certified by the heads of those departments respectively,

or by any document purporting to be printed by order of any such Government:

(2.) The proceedings of the Legislatures,

by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of Government:

(3.) Proclamations, orders or regulations issued by Her Majesty or by the Privy Council, or by any department of Her Majesty's Government,

by copies or extracts contained in the *London Gazette*, or purporting to be printed by the Queen's Printer:

(4.) The acts of the Executive or the proceedings of the legislature of a foreign country,

by

by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some public Act of the Governor General of India in Council:

(5.) The proceedings of a municipal body in British India,

by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body:

(6.) Public documents of any other class in a foreign country,

by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a Notary Public, or of a British Consul or diplomatic agent, that the copy is duly certified by the officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.

Presumptions as to Documents.

Presumption as to genuineness of certified copies.

79. The Court shall presume every document purporting to be a certificate, certified copy, or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer in British India, or by any officer in any Native State in alliance with Her Majesty, who is duly authorized thereto by the Governor General in Council, to be genuine: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

The Court shall also presume that any officer by whom any such document purports to be signed or certified held, when he signed it, the official character which he claims in such paper.

Presumption as to documents produced as record of evidence.

80. Whenever any document is produced before any Court, purporting to be a record or memorandum of the evidence, or of any part of the evidence, given by a witness in a judicial proceeding or before any officer authorized by law to take such evidence,

or

or to be a statement or confession by any prisoner or accused person, taken in accordance with law, and purporting to be signed by any Judge or Magistrate, or by any such officer as aforesaid, the Court shall presume—

that the document is genuine; that any statements as to the circumstances under which it was taken, purporting to be made by the person signing it, are true, and that such evidence, statement or confession was duly taken.

Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.

81. The Court shall presume the genuineness of every document purporting to be the *London Gazette,* or the *Gazette of India,* or the Government Gazette of any Local Government, or of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.

Presumption as to document admissible in England without proof of seal or signature.

82. When any document is produced before any Court, purporting to be a document which, by the law in force for the time being in England or Ireland, would be admissible in proof of any particular in any Court of Justice in England or Ireland, without proof of the seal or stamp or signature authenticating it, or of the judicial or official character claimed by the person by whom it purports to be signed, the Court shall presume that such seal, stamp or signature is genuine, and that the person signing it held, at the time when he signed it, the judicial or official character which he claims,

and the document shall be admissible for the same purpose for which it would be admissible in England or Ireland.

Presumption as to maps or plans made by authority of Government.

83. The Court shall presume that maps or plans purporting to be made by the authority of Government were so made, and are accurate; but maps or plans made for the purposes of any cause must be proved to be accurate.

84. The

Presumption as to collections of laws and reports of decisions.

84. The Court shall presume the genuineness of every book purporting to be printed or published under the authority of the Government of any country, and to contain any of the laws of that country,

and of every book purporting to contain reports of decisions of the Courts of such country.

Presumption as to powers-of-attorney.

85. The Court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a Notary Public, or any Court, Judge, Magistrate, British Consul or Vice-Consul, or representative of Her Majesty or of the Government of India, was so executed and authenticated.

Presumption as to certified copies of foreign judicial records.

86. The Court may presume that any document purporting to be a certified copy of any judicial record of any country not forming part of Her Majesty's dominions is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of Her Majesty or of the Government of India resident in such country to be the manner commonly in use in that country for the certification of copies of judicial records.

Presumption as to books, maps and charts.

87. The Court may presume that any book to which it may refer for information on matters of public or general interest, and that any published map or chart, the statements of which are relevant facts, and which is produced for its inspection, was written and published by the person, and at the time and place, by whom or at which it purports to have been written or published.

Presumption as to telegraphic messages.

88. The Court may presume that a message, forwarded from a telegraph office to the person to whom such message purports to be addressed, corresponds with a message delivered for transmission at the office from which the message purports to be sent; but the Court shall not make any presumption as to the person by whom such message was delivered for transmission.

Presumption as to due execution, &c., of documents not produced.

89. The Court shall presume that every document, called for and not produced after notice to produce, was attested, stamped and executed in the manner required by law.

90. Where

90. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.

Presumption as to documents thirty years old.

Explanation.—Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable.

This explanation applies also to section eighty-one.

Illustrations.

(*a.*) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it. The custody is proper.

(*b.*) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper.

(*c.*) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody is proper.

CHAPTER VI.—OF THE EXCLUSION OF ORAL BY DOCUMENTARY EVIDENCE.

91. When the terms of a contract, or of a grant, or of any other disposition of property, have been reduced to the form of a document, and in all cases in which any matter is required by law to be reduced to the form of a document, no evidence shall be given in proof of the terms of such contract, grant or other disposition of property, or of such matter, except the document itself, or secondary evidence of its contents in cases in which secondary evidence is admissible under the provisions hereinbefore contained.

Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.

Exception 1.—When a public officer is required by law to be appointed in writing, and when it is shown that

that any particular person has acted as such officer, the writing by which he is appointed need not be proved.

Exception 2.—Wills under the Indian Succession Act may be proved by the probate.

Explanation 1.—This section applies equally to cases in which the contracts, grants or dispositions of property referred to are contained in one document, and to cases in which they are contained in more documents than one.

Explanation 2.—Where there are more originals than one, one original only need be proved.

Explanation 3.—The statement, in any document whatever, of a fact other than the facts referred to in this section, shall not preclude the admission of oral evidence as to the same fact.

Illustrations.

(*a.*) If a contract be contained in several letters, all the letters in which it is contained must be proved.

(*b.*) If a contract is contained in a bill of exchange, the bill of exchange must be proved.

(*c.*) If a bill of exchange is drawn in a set of three, one only need be proved.

(*d.*) A contracts, in writing, with B, for the delivery of indigo upon certain terms. The contract mentions the fact that B had paid A the price of other indigo contracted for verbally on another occasion.

Oral evidence is offered that no payment was made for the other indigo. The evidence is admissible.

(*e.*) A gives B a receipt for money paid by B.

Oral evidence is offered of the payment.

The evidence is admissible.

Exclusion of evidence of oral agreement.

92. When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:

Proviso (1)

Proviso (1).—Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want of failure of consideration, or mistake in fact or law.

Proviso (2).—The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.

Proviso (3).—The existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.

Proviso (4).—The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.

Proviso (5).—Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved: Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.

Proviso (6).—Any fact may be proved which shows in what manner the language of a document is related to existing facts.

Illustrations.

(*a.*) A policy of insurance is effected on goods "in ships from Calcutta to London." The goods are shipped in a particular ship which is lost. The fact that that particular ship was orally excepted from the policy, cannot be proved.

(*b.*) A agrees absolutely in writing to pay B Rs. 1,000 on the first March 1873. The fact that, at the same time, an oral agreement was made that the money should not be paid till the thirty-first March, cannot be proved.

(*c.*) An

(*c.*) An estate called 'the Rámpur tea estate' is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed, cannot be proved.

(*d.*) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.

(*e.*) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.

(*f.*) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.

(*g.*) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: 'Bought of A a horse for Rs. 500.' B may prove the verbal warranty.

(*h.*) A hires lodgings of B, and gives B a card on which is written—'Rooms, Rs. 200 a month.' A may prove a verbal agreement that these terms were to include partial board.

A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the terms verbally.

(*i.*) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.

(*j.*) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.

Exclusion of evidence to explain or amend ambiguous document.

93. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.

Illustrations.

(*a.*) A agrees, in writing, to sell a horse to B for 'Rs. 1,000, or Rs. 1,500.'

Evidence cannot be given to show which price was to be given.

(*b.*) A

(*b.*) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.

BENGAL SECRETARIAT LIBRARY.

Exclusion of evidence against application of document to existing facts.

94. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.

Illustration.

A sells to B, by deed, 'my estate at Rámpur containing 100 bíghás.' A has an estate at Rámpur containing 100 bíghás. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.

Evidence as to document in unmeaning reference to existing facts.

95. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.

Illustration.

A sells to B, by deed, 'my house in Calcutta.'

A had no house in Calcutta, but it appears that he had a house at Howrah, of which B had been in possession since the execution of the deed.

These facts may be proved to show that the deed related to the house at Howrah.

Evidence as to application of language which can apply to one only of several persons.

96. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to.

Illustrations.

(*a.*) A agrees to sell to B, for Rs. 1,000, 'my white horse.' A has two white horses. Evidence may be given of facts which show which of them was meant.

(*b.*) A agrees to accompany B to Haidarábád. Evidence may be given of facts showing whether Haidarábád in the Dekkhan or Haidarábád in Sindh was meant.

Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.

97. When the language used applies partly to one set of existing facts, and partly to another set of existing facts, but the whole of it does not apply correctly to either, evidence may be given to show to which of the two it was meant to apply.

Illustration.

Illustration.

A agrees to sell to B 'my land at X in the occupation of Y.' A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

Evidence as to meaning of illegible characters, &c.

98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local, and provincial expressions, of abbreviations and of words used in a peculiar sense.

Illustration.

A, a sculptor, agrees to sell to B 'all my mods.' A has both models and modelling tools. Evidence may be given to show which he meant to sell.

Who may give evidence of agreement varying terms of document.

99. Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

Illustration.

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interests.

Saving of provisions of Indian Succession Act relating to wills.

100. Nothing in this chapter contained shall be taken to affect any of the provisions of the Indian Succession Act (X of 1865) as to the construction of wills.

PART III.

PRODUCTION AND EFFECT OF EVIDENCE.

CHAPTER VII.—OF THE BURDEN OF PROOF.

Burden of proof.

101. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations.

Illustrations.

(*a.*) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(*b.*) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true.

A must prove the existence of those facts.

On whom burden of proof lies.

102. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Illustrations.

(*a.*) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(*b.*) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

Burden of proof as to particular fact.

103. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration.

(*a.*) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

Burden of proving fact to be proved to make evidence admissible.

104. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Illustrations.

(*a.*) A wishes to prove a dying declaration by B. A must prove B's death.

(*b.*) A

Illustration.

A agrees to sell to B 'my land at X in the occupation of Y.' A has land at X, but not in the occupation of Y, and he has land in the occupation of Y, but it is not at X. Evidence may be given of facts showing which he meant to sell.

Evidence as to meaning of illegible characters, &c.

98. Evidence may be given to show the meaning of illegible or not commonly intelligible characters, of foreign, obsolete, technical, local, and provincial expressions, of abbreviations and of words used in a peculiar sense.

Illustration.

A, a sculptor, agrees to sell to B 'all my mods.' A has both models and modelling tools. Evidence may be given to show which he meant to sell.

Who may give evidence of agreement varying terms of document.

99. Persons who are not parties to a document, or their representatives in interest, may give evidence of any facts tending to show a contemporaneous agreement varying the terms of the document.

Illustration.

A and B make a contract in writing that B shall sell A certain cotton, to be paid for on delivery. At the same time they make an oral agreement that three months' credit shall be given to A. This could not be shown as between A and B, but it might be shown by C, if it affected his interests.

Saving of provisions of Indian Succession Act relating to wills.

100. Nothing in this chapter contained shall be taken to affect any of the provisions of the Indian Succession Act (X of 1865) as to the construction of wills.

PART III.

PRODUCTION AND EFFECT OF EVIDENCE.

CHAPTER VII.—OF THE BURDEN OF PROOF.

Burden of proof.

101. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist.

When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.

Illustrations.

Illustrations.

(*a.*) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed.

A must prove that B has committed the crime.

(*b.*) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true.

A must prove the existence of those facts.

On whom burden of proof lies.

102. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

Illustrations.

(*a.*) A sues B for land of which B is in possession, and which, as A asserts, was left to A by the will of C, B's father.

If no evidence were given on either side, B would be entitled to retain his possession.

Therefore the burden of proof is on A.

(*b.*) A sues B for money due on a bond.

The execution of the bond is admitted, but B says that it was obtained by fraud, which A denies.

If no evidence were given on either side, A would succeed, as the bond is not disputed and the fraud is not proved.

Therefore the burden of proof is on B.

Burden of proof as to particular fact.

103. The burden of proof as to any particular fact lies on that person who wishes the Court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.

Illustration.

(*a.*) A prosecutes B for theft, and wishes the Court to believe that B admitted the theft to C. A must prove the admission.

B wishes the Court to believe that, at the time in question, he was elsewhere. He must prove it.

Burden of proving fact to be proved to make evidence admissible.

104. The burden of proving any fact necessary to be proved in order to enable any person to give evidence of any other fact is on the person who wishes to give such evidence.

Illustrations.

(*a.*) A wishes to prove a dying declaration by B. A must prove B's death.

(*b.*) A

(*b.*) A wishes to prove, by secondary evidence, the contents of a lost document.

A must prove that the document has been lost.

Burden of proving that case of accused comes within exceptions.

105. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code, or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances.

Illustrations.

(*a.*) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act.

The burden of proof is on A.

(*b.*) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control.

The burden of proof is on A.

(*c.*) Section three hundred and twenty-five of the Indian Penal Code provides that whoever, except in the case provided for by section three hundred and thirty-five, voluntarily causes grievous hurt, shall be subject to certain punishments.

A is charged with voluntarily causing grievous hurt under section three hundred and twenty-five.

The burden of proving the circumstances bringing the case under section three hundred and thirty-five lies on A.

Burden of proving fact especially within knowledge.

106. When any fact is especially within the knowledge of any person, the burden of proving that fact is upon him.

Illustrations.

(*a.*) When a person does an act with some intention other than that which the character and circumstances of the act suggest, the burden of proving that intention is upon him.

(*b.*) A is charged with travelling on a railway without a ticket. The burden of proving that he had a ticket is on him.

Burden of proving death of person known to have been alive within thirty years.

107. When the question is whether a man is alive or dead, and it is shown that he was alive within thirty years, the burden of proving that he is dead is on the person who affirms it.

Burden of proving that person is alive who has not been heard of for seven years.

108. When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have

have heard of him if he had been alive, the burden of proving that he is alive is on the person who affirms it.

Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent.

109. When the question is whether persons are partners, landlord and tenant, or principal and agent, and it has been shown that they have been acting as such, the burden of proving that they do not stand, or have ceased to stand, to each other in those relationships respectively, is on the person who affirms it.

Burden of proof as to ownership.

110. When the question is whether any person is owner of anything of which he is shown to be in possession, the burden of proving that he is not the owner is on the person who affirms that he is not the owner.

Proof of good faith in transactions where one party is in relation of active confidence.

111. Where there is a question as to the good faith of a transaction between parties, one of whom stands to the other in a position of active confidence, the burden of proving the good faith of the transaction is on the party who is in a position of active confidence.

Illustrations.

(*a.*) The good faith of a sale by a client to an attorney is in question in a suit brought by the client. The burden of proving the good faith of the transaction is on the attorney.

(*b.*) The good faith of a sale by a son just come of age to a father is in question in a suit brought by the son. The burden of proving the good faith of the transaction is on the father.

Birth during marriage, conclusive proof of legitimacy.

112. The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

Proof of cession of territory.

113. A notification in the *Gazette of India* that any portion of British territory has been ceded to any Native State, Prince or Ruler, shall be conclusive proof that a valid cession of such territory took place at the date mentioned in such notification.

Court may presume existence of certain facts.

114. The Court may presume the existence of any fact which it thinks likely to have happened, regard being

being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations.

The Court may presume—

(*a.*) That a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;

(*b.*) That an accomplice is unworthy of credit, unless he is corroborated in material particulars;

(*c.*) That a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;

(*d.*) That a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or state of things usually cease to exist, is still in existence;

(*e.*) That judicial and official acts have been regularly performed;

(*f.*) That the common course of business has been followed in particular cases;

(*g.*) That evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;

(*h.*) That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;

(*i.*) That when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it:—

As to illustration (*a*)—A shop-keeper has in his till a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business:

As to illustration (*b*)—A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself:

As to illustration (*b*)—A crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account

of

of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable:

As to illustration (*c*)—A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence:

As to illustration (*d*)—It is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course:

As to illustration (*e*)—A judicial act, the regularity of which is in question, was performed under exceptional circumstances:

As to illustration (*f*)—The question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances:

As to illustration (*g*)—A man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family:

As to illustration (*h*)—A man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked:

As to illustration (*i*)—A bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.

CHAPTER VIII.—ESTOPPEL.

Estoppel.

115. When one person has, by his declaration, act or omission, intentionally caused or permitted another person to believe a thing to be true and to act upon such belief, neither he nor his representative shall be allowed, in any suit or proceeding between himself and such person or his representative, to deny the truth of that thing.

Illustration.

A intentionally and falsely leads B to believe that certain land belongs to A, and thereby induces B to buy and pay for it.

The land afterwards becomes the property of A, and A seeks to set aside the sale on the ground that, at the time of the sale, he had no title. He must not be allowed to prove his want of title.

Estoppel of tenant

116. No tenant of immoveable property, or person claiming through such tenant, shall, during the continuance

tinuance of the tenancy, be permitted to deny that the landlord of such tenant had, at the beginning of the tenancy, a title to such immoveable property; and no person who came upon any immoveable property by the license of the person in possession thereof, shall be permitted to deny that such person had a title to such possession at the time when such license was given.

and of licensee of person in possession.

Estoppel of acceptor of bill of exchange, bailee or licensee.

117. No acceptor of a bill of exchange shall be permitted to deny that the drawer had authority to draw such bill or to endorse it; nor shall any bailee or licensee be permitted to deny that his bailor or licensor had, at the time when the bailment or license commenced, authority to make such bailment or grant such license.

Explanation (1).—The acceptor of a bill of exchange may deny that the bill was really drawn by the person by whom it purports to have been drawn.

Explanation (2).—If a bailee delivers the goods bailed to a person other than the bailor, he may prove that such person had a right to them as against the bailor.

CHAPTER IX.—OF WITNESSES.

Who may testify.

118. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind.

Explanation.—A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.

Dumb witnesses.

119. A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible, as by writing or by signs; but such writing must be written and the signs made in open Court. Evidence so given shall be deemed to be oral evidence.

120. In

120. In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

Parties to civil suit, and their wives or husbands.

Husband or wife of person under criminal trial.

121. No Judge or Magistrate shall, except upon the special order of some Court to which he is subordinate, be compelled to answer any questions as to his own conduct in Court as such Judge or Magistrate, or as to anything which came to his knowledge in Court as such Judge or Magistrate; but he may be examined as to other matters which occurred in his presence whilst he was so acting.

Judges and Magistrates.

Illustrations.

(*a.*) A, on his trial before the Court of Session, says that a deposition was improperly taken by B, the Magistrate. B cannot be compelled to answer questions as to this, except upon the special order of a superior Court.

(*b.*) A is accused before the Court of Session of having given false evidence before B, a Magistrate. B cannot be asked what A said, except upon the special order of the superior Court.

(*c.*) A is accused before the Court of Session of attempting to murder a Police officer whilst on his trial before B, a Sessions Judge. B may be examined as to what occurred.

122. No person who is or has been married, shall be compelled to disclose any communication made to him during marriage by any person to whom he is or has been married; nor shall he be permitted to disclose any such communication, unless the person who made it, or his representative in interest, consents, except in suits between married persons, or proceedings in which one married person is prosecuted for any crime committed against the other.

Communications during marriage.

123. No one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of State, except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.

Evidence as to affairs of State.

124. No public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.

Official communications.

125. No

Information as to commission of offences.

125. No Magistrate or Police officer shall be compelled to say whence he got any information as to the commission of any offence.

Professional communications.

126. No barrister, attorney, pleader or vakíl, shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or vakíl, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:

Provided that nothing in this section shall protect from disclosure—

(1) Any such communication made in furtherance of any criminal purpose;

(2) Any fact observed by any barrister, pleader, attorney or vakíl, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.

It is immaterial whether the attention of such barrister, attorney or vakíl was or was not directed to such fact by or on behalf of his client.

Explanation.—The obligation stated in this section continues after the employment has ceased.

Illustrations.

(*a*.) A, a client, says to B, an attorney—'I have committed forgery, and I wish you to defend me.'

As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure.

(*b*.) A, a client, says to B, an attorney—'I wish to obtain possession of property by the use of a forged deed on which I request you to sue.'

This communication, being made in furtherance of a criminal purpose, is not protected from disclosure.

(*c*.) A, being charged with embezzlement, retains B, an attorney, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account-book, charging A with the sum said to have been embezzled, which

entry

entry was not in the book at the commencement of his employment.

This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.

127. The provisions of section one hundred and twenty-six shall apply to interpreters, and the clerks or servants of barristers, pleaders, attorneys and vakíls.

Section 126 to apply to interpreters, &c.

128. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section one hundred and twenty-six; and if any party to a suit or proceeding calls any such barrister, attorney or vakíl as a witness, he shall be deemed to have consented to such disclosure only if he questions such barrister, attorney or vakíl on matters which, but for such question, he would not be at liberty to disclose.

Privilege not waived by volunteering evidence.

129. No one shall be compelled to disclose to the Court any confidential communication which has taken place between him and his legal professional adviser, unless he offers himself as a witness, in which case he may be compelled to disclose any such communications as may appear to the Court necessary to be known in order to explain any evidence which he has given, but no others.

Confidential communications with legal advisers.

130. No witness who is not a party to a suit shall be compelled to produce his title-deeds to any property, or any document in virtue of which he holds any property as pledgee or mortgagee, or any document the production of which might tend to criminate him, unless he has agreed in writing to produce them with the person seeking the production of such deeds or some person through whom he claims.

Production of title-deeds of witness not a party.

131. No one shall be compelled to produce documents in his possession, which any other person would be entitled to refuse to produce if they were in his possession, unless such last mentioned person consents to their production.

Production of documents which another person, having possession, could refuse to produce.

Witness not excused from answering on ground that answer will criminate.

132. A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:

Proviso.

Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.

Accomplice.

133. An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Number of witnesses.

134. No particular number of witnesses shall in any case be required for the proof of any fact.

CHAPTER X.—OF THE EXAMINATION OF WITNESSES.

Order of production and examination of witnesses.

135. The order in which witnesses are produced and examined shall be regulated by the law and practice for the time being relating to civil and criminal procedure respectively, and, in the absence of any such law, by the discretion of the Court.

Judge to decide as to admissibility of evidence.

136. When either party proposes to give evidence of any fact, the Judge may ask the party proposing to give the evidence in what manner the alleged fact, if proved, would be relevant; and the Judge shall admit the evidence if he thinks that the fact, if proved, would be relevant, and not otherwise.

If the fact proposed to be proved is one of which evidence is admissible only upon proof of some other fact, such last-mentioned fact must be proved before evidence is given of the fact first mentioned, unless the party undertakes to give proof of such fact and the Court is satisfied with such undertaking.

If

If the relevancy of one alleged fact depends upon another alleged fact being first proved, the Judge may, in his discretion, either permit evidence of the first fact to be given before the second fact is proved, or require evidence to be given of the second fact before evidence is given of the first fact.

Illustrations.

(*a.*) It is proposed to prove a statement about a relevant fact by a person alleged to be dead, which statement is relevant under section thirty-two.

The fact that the person is dead must be proved by the person proposing to prove the statement, before evidence is given of the statement.

(*b.*) It is proposed to prove, by a copy, the contents of a document said to be lost.

The fact that the original is lost must be proved by the person proposing to produce the copy, before the copy is produced.

(*c.*) A is accused of receiving stolen property knowing it to have been stolen.

It is proposed to prove that he denied the possession of the property.

The relevancy of the denial depends on the identity of the property. The Court may, in its discretion, either require the property to be identified before the denial of the possession is proved, or permit the denial of the possession to be proved before the property is identified.

(*d.*) It is proposed to prove a fact (A) which is said to have been the cause or effect of a fact in issue. There are several intermediate facts (B, C and D) which must be shown to exist before the fact (A) can be regarded as the cause or effect of the fact in issue. The Court may either permit A to be proved before B, C or D is proved, or may require proof of B, C and D before permitting proof of A.

137. The examination of a witness by the party who calls him shall be called his examination-in-chief. Examination-in-chief.

The examination of a witness by the adverse party shall be called his cross-examination. Cross-examination.

The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination. Re-examination.

138. Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. Order of examinations. Direction of re-examination.

The

The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.

The re-examination shall be directed to the explanation of matters referred to in cross-examination; and if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

Cross-examination of person called to produce a document.

139. A person summoned to produce a document does not become a witness by the mere fact that he produces it, and cannot be cross-examined unless and until he is called as a witness.

Witnesses to character.

140. Witnesses to character may be cross-examined and re-examined.

Leading questions.

141. Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.

When they must not be asked.

142. Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court.

The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.

When they may be asked.

143. Leading questions may be asked in cross-examination.

Evidence as to matters in writing.

144. Any witness may be asked, whilst under examination, whether any contract, grant or other disposition of property, as to which he is giving evidence, was not contained in a document, and if he says that it was, or if he is about to make any statement as to the contents of any document, which, in the opinion of the Court, ought to be produced, the adverse party may object to such evidence being given until such document is produced, or until facts have been proved which entitle the party who called the witness to give secondary evidence of it.

Explanation.—A witness may give oral evidence of statements made by other persons about the contents

tents of documents if such statements are in themselves relevant facts.

Illustration.

The question is, whether A assaulted B.

C deposes that he heard A say to D—'B wrote a letter accusing me of theft, and I will be revenged on him.' This statement is relevant, as showing A's motive for the assault, and evidence may be given of it, though no other evidence is given about the letter.

Cross-examination as to previous statements in writing.

145. A witness may be cross-examined as to previous statements made by him in writing or reduced into writing, and relevant to matters in question, without such writing being shown to him, or being proved; but if it is intended to contradict him by the writing, his attention must, before the writing can be proved, be called to those parts of it which are to be used for the purpose of contradicting him.

Questions lawful in cross-examination.

146. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend

(1) to test his veracity;

(2) to discover who he is, and what is his position in life, or

(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him, or might expose or tend directly or indirectly to expose him to a penalty or forfeiture.

When witness to be compelled to answer.

147. If any such question relates to a matter relevant to the suit or proceeding, the provisions of section one hundred and thirty-two shall apply thereto.

Court to decide when question shall be asked and when witness compelled to answer.

148. If any such question relates to a matter not relevant to the suit or proceeding, except in so far as it affects the credit of the witness by injuring his character, the Court shall decide whether or not the witness shall be compelled to answer it, and may, if it thinks fit, warn the witness that he is not obliged to answer it. In exercising its discretion, the Court shall have regard to the following considerations:—

(1.) Such questions are proper if they are of such a nature that the truth of the imputation conveyed by

by them would seriously affect the opinion of the Court as to the credibility of the witness on the matter to which he testifies:

(2.) Such questions are improper if the imputation which they convey relates to matters so remote in time, or of such a character, that the truth of the imputation would not affect, or would affect in a slight degree, the opinion of the Court as to the credibility of the witness on the matter to which he testifies:

(3.) Such questions are improper if there is a great disproportion between the importance of the imputation made against the witness' character and the importance of his evidence:

(4). The Court may, if it sees fit, draw, from the witness' refusal to answer, the inference that the answer if given would be unfavourable.

Question not to be asked without reasonable grounds.

149. No such question as is referred to in section one hundred and forty-eight ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded.

Illustrations.

(*a.*) A barrister is instructed by an attorney or vakíl that an important witness is a dákáit. This is a reasonable ground for asking the witness whether he is a dákáit.

(*b.*) A pleader is informed by a person in Court that an important witness is a dákáit. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dákáit.

(*c.*) A witness, of whom nothing whatever is known, is asked at random whether he is a dákáit. There are here no reasonable grounds for the question.

(*d.*) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dákáit.

Procedure of Court in case of question being asked without reasonable grounds.

150. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any barrister, pleader, vakíl or attorney, report the circumstances of the case to the High Court

Court or other authority to which such barrister, pleader, vakíl or attorney is subject in the exercise of his profession.

Indecent and scandalous questions.

151. The Court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the Court, unless they relate to facts in issue, or to matters necessary to be known in order to determine whether or not the facts in issue existed.

Questions intended to insult or annoy.

152. The Court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the Court needlessly offensive in form.

Exclusion of evidence to contradict answers to questions testing veracity.

153. When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but if he answers falsely, he may afterwards be charged with giving false evidence.

Exception 1.—If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction.

Exception 2.—If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts suggested, he may be contradicted.

Illustrations.

(*a*.) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it.

Evidence is offered to show that he did make such a claim.

The evidence is inadmissible.

(*b*.) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it.

Evidence is offered to show that he was dismissed for dishonesty.

The evidence is not admissible.

(*c*.) A affirms that on a certain day he saw B at Lahore.

A is asked whether he himself was not on that day at Calcutta. He denies it.

Evidence

Evidence is offered to show that A was on that day at Calcutta.

The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore.

In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(*d.*) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence.

He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

Question by party to his own witness.

154. The Court may, in its discretion, permit the person who calls a witness to put any questions to him which might be put in cross-examination by the adverse party.

Impeaching credit of witness.

155. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:—

(1.) By the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;

(2.) By proof that the witness has been bribed, or has had the offer of a bribe, or has received any other corrupt inducement to give his evidence;

(3.) By proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;

(4.) When a man is prosecuted for rape or an attempt to ravish, it may be shown that the prosecutrix was of generally immoral character.

Explanation.—A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.

Illustrations.

(*a*). A sues B for the price of goods sold and delivered to B.

C says that he delivered the goods to B.

Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B.

The

The evidence is admissible.

(*b.*) A is indicted for the murder of B.

C says that B, when dying, declared that A had given B the wound of which he died.

Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence.

The evidence is admissible.

Questions tending to corroborate evidence of relevant fact, admissible.

156. When a witness whom it is intended to corroborate gives evidence of any relevant fact, he may be questioned as to any other circumstances which he observed at or near to the time or place at which such relevant fact occurred, if the Court is of opinion that such circumstances, if proved, would corroborate the testimony of the witness as to the relevant fact which he testifies.

Illustration.

A, an accomplice, gives an account of a robbery in which he took part. He describes various incidents unconnected with the robbery which occurred on his way to and from the place where it was committed.

Independent evidence of these facts may be given in order to corroborate his evidence as to the robbery itself.

Former statements of witness may be proved to corroborate later testimony as to same fact.

157. In order to corroborate the testimony of a witness, any former statement made by such witness relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, may be proved.

What matters may be proved in connection with proved statement relevant under section 32 or 33.

158. Whenever any statement, relevant under section thirty-two or thirty-three, is proved, all matters may be proved, either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.

Refreshing memory

159. A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.

The

The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.

When witness may use copy of document to refresh memory.

Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document: Provided the Court be satisfied that there is sufficient reason for the non-production of the original.

An expert may refresh his memory by reference to professional treatises.

Testimony to facts stated in document mentioned in section 159.

160. A witness may also testify to facts mentioned in any such document as is mentioned in section one hundred and fifty-nine, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.

Illustration.

A book-keeper may testify to facts recorded by him in books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.

Right of adverse party as to writing used to refresh memory.

161. Any writing referred to under the provisions of the two last preceding sections must be produced and shown to the adverse party if he requires it; such party may, if he pleases, cross-examine the witness thereupon.

Production of documents.

162. A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court.

The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility.

Translation of documents.

If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence: and

if

if the interpreter disobeys such direction, he shall be held to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

Giving, as evidence, of document called for and produced on notice.

163. When a party calls for a document which he has given the other party notice to produce, and such document is produced and inspected by the party calling for its production, he is bound to give it as evidence if the party producing it requires him to do so.

Using, as evidence, of document production of which was refused on notice.

164. When a party refuses to produce a document which he has had notice to produce, he cannot afterwards use the document as evidence without the consent of the other party or the order of the Court.

Illustration.

A sues B on an agreement and gives B notice to produce it. At the trial, A calls for the document and B refuses to produce it. A gives secondary evidence of its contents. B seeks to produce the document itself to contradict the secondary evidence given by A, or in order to show that the agreement is not stamped. He cannot do so.

Judge's power to put questions or order production.

165. The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties, about any fact relevant or irrelevant; and may order the production of any document or thing: and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:

Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:

Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections one hundred and twenty-one to one hundred and thirty-one both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be

improper

improper for any other person to ask under sections one hundred and forty-eight or one hundred and forty-nine; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.

Power of jury or assessors to put questions.

166. In cases tried by jury or with assessors, the jury or assessors may put any questions to the witnesses, through or by leave of the Judge, which the Judge himself might put and which he considers proper.

CHAPTER XI.—OF IMPROPER ADMISSION AND REJECTION OF EVIDENCE.

No new trial for improper admission or rejection of evidence.

167. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

SCHEDULE.

ENACTMENTS REPEALED.

[*See section* 2.]

Number and year.	TITLE.	Extent of repeal.
Stat. 26 Geo. III, cap. 57.	For the further regulation of the trial of persons accused of certain offences committed in the East Indies; for repealing so much of an Act, made in the twenty-fourth year of the reign of his present Majesty (intituled 'An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a court of judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies'), as requires the servants of the East India Company to deliver inventories of their estates and effects; for rendering the laws more effectual against persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of deeds and writings executed in Great Britain or India.	Section thirty-eight so far as it relates to Courts of justice in the East Indies.
Stat. 14 & 15 Vic., cap. 99.	To amend the Law of Evidence ...	Section eleven and so much of section nineteen as relates to British India.
Act XV of 1852 ...	To amend the Law of Evidence ...	So much as has not been heretofore repealed.
Act XIX of 1853	To amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.	Section nineteen
Act II of 1855 ...	For the further improvement of the Law of Evidence.	So much as has not been heretofore repealed.
Act XXV of 1861	For simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	Section two hundred and thirty-seven.
Act I of 1868 ...	The General Clauses' Act, 1868 ...	Sections seven and eight.

Office Supdt. Govt. Printing,—No. 142 L. D.—26-6-72.—621.

ACT No. II OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March 1872.)

An Act to revive and continue the operation of Act XV of 1867 *(to make better provision for the appointment of Municipal Committees in the Panjáb, and for other purposes).*

WHEREAS the term for which Act XV of 1867 was enacted to be in force has expired, and it is expedient to revive and continue the operation of the said Act; It is hereby enacted as follows:— Preamble.

1. Act XV of 1867 shall be deemed to be, and to have been, in force throughout the territories subject to the control of the Lieutenant-Governor of the Panjáb from the last day of February 1872, and shall continue in force in the said territories until the first day of March 1873. Revival and continuance of Act XV of 1867.

[*Price one anna.*]

Office Supdt. Govt. Printing.—No. 10501 L. D.—30-4-72.—3,000.

ACT No. III of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March 1872).

An Act to provide a form of Marriage in certain cases.

Preamble.

WHEREAS it is expedient to provide a form of marriage for persons who do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion, and to legalize certain marriages the validity of which is doubtful; It is hereby enacted as follows:—

Local extent. Commencement.

1. This Act extends to the whole of British India, and shall come into force on the passing thereof.

Conditions upon which marriages under Act may be celebrated.

2. Marriages may be celebrated under this Act between persons neither of whom professes the Christian or the Jewish, or the Hindú or the Muhammadan, or the Pársí or the Buddhist, or the Sikh or the Jaina religion, upon the following conditions:—

(1).—Neither party must, at the time of the marriage, have a husband or wife living:

(2).—The man must have completed his age of eighteen years, and the woman her age of fourteen years, according to the Gregorian calendar:

(3).—Each party must, if he or she has not completed the age of twenty-one years, have obtained the consent of his or her father or guardian to the marriage:

(4).—The parties must not be related to each other in any degree of consanguinity or affinity which would, according to any law to which either of them is subject, render a marriage between them illegal.

1st Proviso.—No such law or custom, other than one relating to consanguinity or affinity, shall prevent them from marrying.

2nd

[*Price three annas and three pies.*]

2nd Proviso.—No law or custom as to consanguinity shall prevent them from marrying, unless a relationship can be traced between the parties through some common ancestor, who stands to each of them in a nearer relationship than that of great-great-grandfather or great-great-grand-mother, or unless one of the parties is the lineal ancestor, or the brother or sister of some lineal ancestor, of the other.

Appointment of Marriage Registrars.

3. The Local Government may appoint one or more Registrars under this Act, either by name or as holding any office for the time being, for any portion of the territory subject to its administration. The officer so appointed shall be called 'Registrar of Marriages under Act III of 1872,' and is hereinafter referred to as 'the Registrar.' The portion of territory for which any such officer is appointed shall be deemed his district.

One of the parties to intended marriage to give notice to Registrar.

4. When a marriage is intended to be solemnized under this Act, one of the parties must give notice in writing to the Registrar, before whom it is to be solemnized.

The Registrar to whom such notice is given must be the Registrar of a district within which one at least of the parties to the marriage has resided for fourteen days before such notice is given.

Such notice may be in the form given in the first schedule to this Act.

Notice to be filed and copy entered in the Marriage Notice Book.

5. The Registrar shall file all such notices and keep them with the records of his office, and shall also forthwith enter a true copy of every such notice in a book to be for that purpose furnished to him by the Government, to be called the "Marriage Notice Book under Act III of 1872," and such book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

Objection to marriage.

6. Fourteen days after notice of an intended marriage has been given under section four, such marriage may be solemnized, unless it has been previously objected to in the manner hereinafter mentioned.

Any person may object to any such marriage on the ground that it would contravene some one or more

more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two.

The nature of the objection made shall be recorded in writing by the Registrar in the register, and shall, if necessary, be read over and explained to the person making the objection, and shall be signed by him or on his behalf.

Procedure on receipt of objection

7. On receipt of such notice of objection the Registrar shall not proceed to solemnize the marriage until the lapse of fourteen days from the receipt of such objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, until the lapse of fourteen days from the opening of such Court.

Objector may file suit

The person objecting to the intended marriage may file a suit in any Civil Court having local jurisdiction (other than a Court of Small Causes) for a declaratory decree, declaring that such marriage would contravene some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two.

Certificate of filing of suit to be lodged with Registrar

8. The officer before whom such suit is filed shall thereupon give the person presenting it a certificate to the effect that such suit has been filed. If such certificate be lodged with the Registrar within fourteen days from the receipt of notice of objection, if there be a Court of competent jurisdiction open at the time, or, if there be no such Court open at the time, within fourteen days of the opening of such Court, the marriage shall not be solemnized till the decision of such Court has been given and the period allowed by law for appeals from such decision has elapsed; or, if there be an appeal from such decision, till the decision of the Appellate Court has been given.

If such certificate be not lodged in the manner and within the period prescribed in the last preceding paragraph, or if the decision of the Court be that such marriage would not contravene any one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two, such marriage may be solemnized.

If the decision of such Court be that the marriage in question would contravene any one or more of the conditions

conditions prescribed in clauses (1), (2), (3) or (4) of section two, the marriage shall not be solemnized.

Court may fine when objection not reasonable.

9. Any Court in which any such suit as is referred to in section seven is filed, may, if it shall appear to it that the objection was not reasonable and *boná fide*, inflict a fine, not exceeding one thousand rupees, on the person objecting, and award it, or any part of it, to the parties to the intended marriage.

Declaration by parties and witnesses.

10. Before the marriage is solemnized, the parties and three witnesses shall, in the presence of the Registrar, sign a declaration in the form contained in the second schedule to this Act. If either party has not completed the age of twenty-one years, the declaration shall also be signed by his or her father or guardian, except in the case of a widow, and, in every case, it shall be countersigned by the Registrar.

Marriage how to be solemnized.

11. The marriage shall be solemnized in the presence of the Registrar and of the three witnesses who signed the declaration. It may be solemnized in any form, provided that each party says to the other, in the presence and hearing of the Registrar and witnesses, 'I, [*A*,] take thee, [*B*,] to be my lawful wife (*or* husband).'

Place where marriage may be solemnized.

12. The marriage may be celebrated either at the office of the Registrar or at such other place, within reasonable distance of the office of the Registrar, as the parties desire: Provided that the Local Government may prescribe the conditions under which such marriages may be solemnized at places other than the Registrar's office, and the additional fees to be paid thereupon.

Certificate of marriage.

13. When the marriage has been solemnized, the Registrar shall enter a certificate thereof in a book to be kept by him for that purpose and to be called the 'Marriage Certificate Book under Act III of 1872,' in the form given in the third schedule to this Act, and such certificate shall be signed by the parties to the marriage and the three witnesses.

Fees.

14. The Local Government shall prescribe the fees to be paid to the Registrar for the duties to be discharged by him under this Act.

The

The Registrar may, if he think fit, demand payment of any such fee before solemnization of the marriage or performance of any other duty in respect of which it is payable.

The said Marriage Certificate Book shall at all reasonable times be open for inspection, and shall be admissible as evidence of the truth of the statements therein contained. Certified extracts therefrom shall on application be given by the Registrar on the payment to him by the applicant of a fee to be fixed by the Local Government for each such extract.

Penalty on married person marrying again under Act.

15. Every person who, being at the time married, procures a marriage of himself to be solemnized under this Act, shall be deemed to have committed an offence under section four hundred and ninety-four or section four hundred and ninety-five of the Indian Penal Code, as the case may be; and the marriage so solemnized is void.

Punishment of bigamy.

16. Every person married under this Act who, during the life-time of his or her wife or husband, contracts any other marriage, shall be subject to the penalties provided in sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife, whatever may be the religion which he or she professed at the time of such second marriage.

Indian Divorce Act to apply.

17. The Indian Divorce Act shall apply to all marriages contracted under this Act, and any such marriage may be declared null or dissolved in the manner therein provided, and for the causes therein mentioned, or on the ground that it contravenes some one or more of the conditions prescribed in clauses (1), (2), (3) or (4) of section two of this Act.

Law to apply to issue of marriages under Act.

18. The issue of marriages solemnized under this Act shall, if they marry under this Act, be deemed to be subject to the law to which their fathers were subject as to the prohibition of marriages by reason of consanguinity and affinity, and the provisoes to section two of this Act shall apply to them.

19. Nothing

Saving of marriages solemnized otherwise than under Act.

19. Nothing in this Act contained shall affect the validity of any marriage not solemnized under its provisions; nor shall this Act be deemed directly or indirectly to affect the validity of any mode of contracting marriage; but if the validity of any such mode shall hereafter come into question before any Court, such question shall be decided as if this Act had not been passed.

Registry of marriages contracted before passing of Act.

20. All persons who have heretofore contracted marriages in the presence of at least two witnesses, according to any form whatever, may at any time, previous to the first day of January 1873, have such marriages registered under this Act, and such marriages shall thereupon be deemed to be and to have been as valid as if they had been contracted and solemnized under this Act: Provided that persons who have such marriages registered under this section must, on such registry, sign a declaration in the form given in the fourth schedule to this Act.

No marriage shall be registered under this section unless conditions (1), (3) and (4) of section two were complied with; and no such marriage shall be registered under this section if, during its continuance, either party has contracted a subsequent marriage.

Penalty for signing declarations or certificates containing false statements.

21. Every person making, signing or attesting any declaration or certificate prescribed by this Act, containing a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed guilty of the offence described in section one hundred and ninety-nine of the Indian Penal Code.

FIRST

FIRST SCHEDULE.

(*See section* 4).

NOTICE OF MARRIAGE.

To a Registrar of Marriages under Act III of 1872 for the District.

I hereby give you notice that a marriage under Act III of 1872 is intended to be had, within three calendar months from the date hereof, between me and the other party herein named and described (that is to say) :—

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence.
A B	*Unmarried. Widower.*	*Landowner.*	*Of full age.*	.....	*23 days.*
C D	*Spinster.*	.....	*Minor.*	.....	.....

Witness my hand, this day of 187 .

(*Signed*) *A. B.*

SECOND SCHEDULE.

(*See section* 10).

Declaration to be made by the Bridegroom.

I, *A B*, hereby declare as follows :—

1. I am at the present time unmarried:

2. I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion :

3. I

3. I have completed my age of eighteen years:

4. I am not related to *C D* [*the bride*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *C D* is subject, and subject to the provisoes of clause (4) of section two of Act III of 1872, render a marriage between us illegal:

[*And when the bridegroom has not completed his age of twenty-one years*:

5. The consent of my father [*or* guardian, *as the case may be*] has been given to a marriage between myself and *C D*, and has not been revoked:]

6. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *A B* [*the bridegroom*].

Declaration to be made by the Bride:—

I, *C D*, hereby declare as follows:—

1. I am at the present time unmarried:

2. I do not profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion:

3. I have completed my age of fourteen years:

4. I am not related to *A B* [*the bridegroom*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *A B* is subject, and subject to the provisoes of clause (4) of section two of Act III of 1872, render a marriage between us illegal:

[*And when the bride has not completed her age of twenty-one years, unless she is a widow*:

5. The consent of *M N* my father [*or* guardian, *as the case may be*], has been given to a marriage between myself and *A B*, and has not been revoked:]

6. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *C D* [*the bride*].

Signed in our presence by the above-named *A B* and *C D*:

G H,
I J, } [*three witnesses*].
K L,

ST

[*Ana*

[*And when the bridegroom or bride has not completed the age of twenty-one years, except in the case of a widow*:

Signed in my presence and with my consent by the above-named *A B* and *C D*:

M N, the father [*or* guardian] of the above-named *A B* (*or C D, as the case may be*)].

(Countersigned) E F,

Registrar of Marriages under Act III of 1872 *for the District of*

Dated the day of 18 .

THIRD SCHEDULE.

(*See section* 13).

Registrar's Certificate.

I, *E F*, certify that, on the of 18 appeared before me *A B* and *C D*, each of whom in my presence and in the presence of three credible witnesses, whose names are signed hereunder, made the declarations required by Act III of 1872, and that a marriage under the said Act was solemnized between them in my presence.

(Signed) E F,

Registrar of Marriages under Act III of 1872 *for the District of*

(Signed) A B,

C D,

G H,
I J,
K L, } [*three witnesses*].

Dated the day of 18 .

FOURTH SCHEDULE.

(*See section* 20).

Declaration to be made by the Husband.

I, *A B*, hereby declare as follows :—

1. I was married to *C D* at [*place*], on or about [*date*] in the presence of [*two witnesses*] :

2. I was, at the time of my marriage to my wife, *C D*, unmarried :

3. I did not at such time profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion :

4. I have not contracted any subsequent marriage :

5. I am not related to *C D* [*the wife*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *C D* is subject, and

subject

subject to the provisoes of clause (4) of section two of Act III of 1872, render a marriage between us illegal :

[*And when the bridegroom had not completed his age of twenty-one years:*

6. The consent of my father [*or* guardian *as the case may be*] had been given to a marriage between myself and *C D*, and had not been revoked :]

7. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *A B* [*the husband*].

Declaration to be made by the Wife :—

I, *C D*, hereby declare as follows :—

1. I was married to *A B* at [*place*], on or about [*date*] in the presence of [*two witnesses*] :

2. I was, at the time of my marriage to my husband, *A B*, unmarried :

3. I did not at such time profess the Christian, Jewish, Hindú, Muhammadan, Pársí, Buddhist, Sikh or Jaina religion :

4. I have not contracted any subsequent marriage :

5. I am not related to *A B* [*the husband*] in any degree of consanguinity or affinity which would, according to the law to which I am subject, or to which the said *A B* is subject, and subject to the provisoes of clause (4) of section two of Act III of 1872, render a marriage between us illegal.

[*And when the bride had not, at the time of her marriage, completed her age of twenty-one years, unless she was then a widow :*

6. The consent of *M N* my father [*or* guardian, *as the case may be*] had at such time been given to a marriage between myself and *A B*, and had not been revoked :]

7. I am aware that, if any statement in this declaration is false, and if in making such statement I either know or believe it to be false, or do not believe it to be true, I am liable to imprisonment, and also to fine.

(*Signed*) *C D* [*the wife*].

Signed in our presence by the above-named *A B* and *C D*:

G H, *I J*, } [*two witnesses*].

(*Countersigned*) *E F*,
Registrar of Marriages under Act III of 1872
for the District of

Dated the *day of* 18 .

Supdt. Govt. Printing.—No. 90 L. C.—1-5-72.—3,000.

THE PANJAB LAWS ACT, 1872.

CONTENTS.

Preamble.

SECTION.

1. Short title.
2. Local extent.
   Commencement.
3. Enactments in force.
4. Enactments repealed.

CIVIL JUDICATURE.

5. Decisions in certain cases to be according to Native law.
6. Decisions in cases not specially provided for.
7. Local customs and mercantile usages when valid.

DESCENT OF JÁGHÍRS.

8. Rule of descent in family of assignee of land-revenue.

PRE-EMPTION.

9. Right of pre-emption defined.
10. To what transactions it extends.
11. Presumption of its existence in village communities.
12. Its existence in towns to be proved.
13. Notice to persons concerned, by vendor or mortgagee of property subject to right.
14. Devolution of right when property to be sold is part of a village.
15. Share of certain immoveable property to be offered to co-sharers.
16. Decision of questions between persons claiming right in respect of immoveable property in towns.
17. Suit against vendor or purchaser by person claiming right, to whom no *bonâ fide* offer of the property sold was made.
18. Decree what to contain.
    Effect of non-payment of purchase-money on date fixed by decree.
19. Party to sale by joint owners cannot withdraw his share and claim pre-emption as to rest.
20. Preferential right of co-sharers in well where chakdárí tenure prevails.

DECREES

[*Price five annas and three pies.*]

SECTION.

DECREES CONCERNING LAND.

21. Copy of decrees affecting land to be forwarded to Deputy Commissioner.

INSOLVENCY.

22. Power to invest Courts with insolvency jurisdiction.
23. Petition to Court for adjudication of insolvency.
24. Procedure of Court thereupon.
Insolvent defined.
25. Insolvent guilty of misconduct may be imprisoned.
26. Fraudulent transfers in expectation of insolvency may be annulled.
27. Power of Court to sell or administer insolvent's estate.
28. Power to give effect to compositions.
29. When Court may order discharge of insolvent.
Effect of order.
30. Foregoing rules not to apply to persons admitted to benefit of insolvency law in presidency towns.
31. Chief Court empowered to frame rules.
32. Power to exclude any class from operation of such rules.
33. Saving of previous insolvency proceedings.

MINORS AND THE COURT OF WARDS.

34. Deputy Commissioners to be Courts of Wards.
35. Jurisdiction of Court of Wards.
Bar of jurisdiction in certain cases.
36. Deputy Commissioner may inquire into circumstances affecting jurisdiction.
37. Appeal to Commissioner against order under section 36.
38. Extent of jurisdiction.

CRIMINAL JUDICATURE.

39. Indian Penal Code to apply to offences committed previous to first January 1862.
Saving of privileges conferred on certain Chiefs.

HONORARY POLICE OFFICERS.

40. Local Government may invest any person with powers of Police officer.

TRACK LAW.

41. Trackers may call for assistance in carrying on tracks.
42. Penalty for withholding assistance or conniving at offence or escape.
Limit to fine.
Appeal to Chief Court.
Fine may be awarded to injured parties, and fee to tracker.

SLAUGHTER

SECTION.

SLAUGHTER OF KINE.

43. Control of slaughter of kine and sale of beef.

ARMED MEN AND FOREIGN VAGRANTS.

44. Control of entry into towns of bands of armed men.
45. Powers of Magistrate of District as to foreign vagrants.
46. Surveillance, &c., of band failing to comply with Magistrate's order.

MISCELLANEOUS.

47. Regulation of crossing of streams on buoys or skins;
48. of use of pasturage or natural product of Government land;
49. and of growing, selling, or keeping opium.
50. Local Government to make rules.
Penalty for breach of rules.
Existing rules confirmed.
51. Republication of rules and orders.

SCHEDULE I. Enactments declared to be in force.

SCHEDULE II. Enactments repealed.

ACT No. IV of 1872.

Passed by the Governor General of India in Council.

(Received the assent of the Governor General on the 28th March 1872).

An Act for declaring which of certain rules, laws and regulations have the force of law in the Panjáb, and for other purposes.

Preamble.

WHEREAS certain rules, laws and regulations, made heretofore for the Panjáb, acquired the force of law under the provisions of section twenty-five of the "Indian Councils' Act, 1861;" and whereas it is expedient to declare which of the said rules, laws and regulations shall henceforth be in force in the Panjáb, and to amend, consolidate or repeal others of the said rules, orders and regulations; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Panjáb Laws Act, 1872."

Local extent.

2. It extends to the territories now under the administration of the Lieutenant-Governor of the Panjáb, but not so as to alter the effect of any regulations made for any parts of the said territories under the Statute 33 Vic., cap. 3, section 1;

Commencement.

And it shall come into force on the first day of June 1872.

Enactments in force.

3. The Regulations, Acts and orders specified in the first schedule hereto annexed are in force in the Panjáb to the extent specified in the third column of the said schedule.

Enactments repealed.

4. The Regulations, Acts and orders specified in the second schedule hereto annexed are repealed to the extent specified in the third column thereof.

Civil

CIVIL JUDICATURE.

Decisions in certain cases to be according to Native law.

5. In questions regarding inheritance, special property of females, betrothal, marriage, dower, adoption, guardianship, minority, bastardy, family relations, wills, legacies, gifts, partition, or any religious usage or institution,

the rule of decision shall be—

(1) any custom of any body or class of persons, which is not contrary to justice, equity and good conscience, and has not been declared to be void by any competent authority,

(2) the Muhammadan law, in cases where the parties are Muhammadans, and the Hindú law, in cases where the parties are Hindús, except in so far as such law has been altered or abolished by legislative enactment, or is opposed to the provisions of this Act, or has been modified by any such custom as is referred to in the preceding clause of this section.

Decisions in cases not specially provided for.

6. In cases not otherwise specially provided for, the Judges shall decide according to justice, equity and good conscience.

Local customs and mercantile usages when valid.

7. All local customs and mercantile usages shall be regarded as valid, unless they are contrary to justice, equity or good conscience, or have, before the passing of this Act, been declared to be void by any competent authority.

DESCENT OF JÁGHÍRS.

Rule of descent in family of assignee of land-revenue.

8. In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land-revenue, such rule of descent shall be held to prevail, and to have prevailed amongst them from the time when the declaration was made.

PRE-EMPTION.

Right of pre-emption defined.

9. The right of pre-emption is a right on the part of certain persons to purchase immoveable property in certain cases in preference to all other persons.

10. The

10. The right of pre-emption extends to all permanent dispositions of property, including sales under a decree of Court and foreclosures of mortgages; but it does not affect transfers made in good faith by way of gift, nor temporary dispositions of property.

To what transactions it extends.

11. The right of pre-emption shall be presumed to exist, whether recorded in the list of customs at settlement or not, in all village communities however constituted, unless the existence of any custom or contract to the contrary can be proved. It shall be presumed to extend to the village site, to the houses built upon it, to all lands and shares of lands within the village boundary, and to all transferable rights of occupancy affecting such lands.

Presumption of its existence in village communities.

12. The right of pre-emption shall not be presumed, but may be shown, to exist in any town or city or any sub-division thereof.

Its existence in towns to be proved.

13. When any person proposes to sell any property, or to foreclose a mortgage upon any property which is subject to the custom of pre-emption, he must give notice to the persons concerned of the price at which he offers to sell such property, or of the amount due in respect of such mortgage, as the case may be.

Notice to persons concerned, by vendor or mortgagee of property subject to right.

14. If the property to be sold is situated within, or is a share of, a village, the right to accept such offer or to redeem such mortgage belongs, in the absence of custom to the contrary,

Devolution of right when property to be sold is part of a village.

First, to co-sharers in the village in order of relationship to the vendor or mortgagor;

Secondly, if no relation of the vendor or mortgagor claim pre-emption, to the landowners of the pattí or other sub-division of the village in which the property is situated, jointly;

Thirdly, to any member of the village community;

Fourthly, to tenants with rights of occupancy in the village, if any.

15. If the property to be sold is a share in joint undivided immoveable property, other than land, the offer to sell must be made to the co-sharers.

Share of certain immoveable property to be offered to co-sharers.

16. When

Decision of questions between persons claiming right in respect of immoveable property in towns.

16. When any question arises between persons claiming a right of pre-emption over any immoveable property situated in any town or city, such questions shall, in the absence of custom to the contrary, be decided according to vicinity, relationship or the merits of the case.

Suit against vendor or purchaser by person claiming right, to whom no *bonâ fide* offer of the property sold was made.

17. Any person who claims a right of pre-emption over any property, may bring a suit against the vendor or purchaser on the ground, either that no previous offer of the property sold was made to him, or that any such offer to sell made to him was not made in good faith; and if the Court is of opinion that the plaintiff has a right of pre-emption over such property, and that no such offer was made or that the offer was not made in good faith, it shall make a decree directing the defendant to sell such property to the plaintiff at such a price as appears to the Court to be the fair market-value of the property.

Decree what to contain. Effect of non-payment of purchase-money on date fixed by decree.

18. The decree shall specify a day on or before which the purchase-money shall be paid. If the purchase-money is not paid before sunset on that day, the decree shall become void, and the plaintiff shall lose his right of pre-emption over the property to which it relates.

Party to sale by joint owners cannot withdraw his share and claim pre-emption as to rest.

19. In case of sale by joint owners, no person who has been a party can withdraw his own share and claim a right of pre-emption as to the rest.

Preferential right of co-sharers in well where chakdárí tenure prevails.

20. In villages in which the chakdárí tenure prevails, the co-sharers in a well have a right of pre-emption as to shares in such well in preference to a general proprietor in any such village having no share in the well but merely receiving a haq zamíndárí from the "chakdárs."

Decrees concerning Land.

Copy of decrees affecting land to be forwarded to Deputy Commissioner.

21. Every Judge of a Civil Court in which a decree affecting the proprietary right in or possession of land is passed, shall cause a certified copy of such decree

decree to be forwarded to the Deputy Commissioner of the district within a month from the making of such decree.

INSOLVENCY.

Power to invest Courts with insolvency jurisdiction.

22. The Local Government may invest any Court or any class of Courts with insolvency jurisdiction in any specified local area.

Petition to Court for adjudication of insolvency.

23. Any debtor, whose debts amount to rupees five hundred or upwards, and any creditor or creditors, to whom an aggregate sum of not less than rupees five hundred is due from any such debtor, may petition the Court having local insolvency jurisdiction that the debtor be adjudicated an insolvent.

Procedure of Court thereupon.

24. If it appear that the debtor's liabilities amount to more than rupees five hundred, the Court may—

(1) call upon the debtor to make a statement of his assets and liabilities;

(2) invite by proclamation or otherwise the appearance of persons to record claims against the debtor;

(3) register all claims so recorded;

(4) call upon the debtor to give reasonable security for his appearance, or, on default of reasonable security, order his confinement in the civil jail;

(5) attach all the debtor's property in the Panjáb, moveable or immoveable;

(6) pass an order exempting the person and property of the debtor from further legal process, pending inquiry and the final orders of the Court.

Insolvent defined.

A debtor on whom the order referred to in clause six of this section is passed, is deemed an insolvent.

Insolvent guilty of misconduct may be imprisoned.

25. The Court shall make full enquiry into the origin, nature, and circumstances of the debts, and the conduct of the debtor in relation thereto; and if the insolvent be shown to have been guilty of concealment, fraud, recklessness or other gross misconduct

conduct in reference to the debts, and if his discharge, for that reason, is opposed by any of the creditors, the Court may, at its discretion, award a term of imprisonment in the civil jail not exceeding one year.

Fraudulent transfers in expectation of insolvency may be annulled.

26. If it appear that the debtor, after becoming unable to meet his liabilities, or in expectation of becoming so, has transferred his property, or any part thereof, with a view to defrauding his creditors, or to giving one or more creditors a fraudulent preference over the others, the Court shall annul such transfer, and treat the property transferred as the other property of the debtor.

Power of Court to sell or administer insolvent's estate.

27. The property of the insolvent shall be sold or administered, under the direction of the Court, either through the agency of its own officers or of assignees to be appointed by the Court, in the manner most conducive to the interest of the creditors, and the proceeds shall be divided rateably amongst them.

Power to give effect to compositions.

28. The Court shall give effect to any composition or arrangement agreed upon between the debtor and the majority of the creditors: Provided that no injustice or injury appears to be inflicted by such composition or arrangement on any of the parties concerned, and that no fraud nor collusion is suspected. If any creditor objects to such arrangement, the Court shall decide as to the reasonableness of the objection.

When Court may order discharge of insolvent.

29. When the sale or administration of the insolvent's property is complete, the Court may order the insolvent to be discharged, on his signing an agreement to liquidate, from any property which he may subsequently acquire, such portion of his debts as remains unpaid. Such order of discharge shall preclude any creditor whose claim is registered from suing the debtor in respect of such claim, unless it be shown that the debtor has acquired property, since the order of discharge, out of which the claim might have been defrayed.

Effect of order.

Foregoing rules not to apply to persons admitted to benefit of insolvency law in presidency towns.

30. Nothing in the preceding sections shall apply to persons who may have been admitted to the benefit of any insolvency law at a presidency town; nor shall any order passed under the preceding sections affect the

the remedy of any creditor against his debtor in respect of property which, at the time of the insolvency of such debtor, was not in the Panjáb.

Chief Court empowered to frame rules.

31. The Chief Court of the Panjáb may, with the sanction of the Local Government, from time to time, frame and issue rules, conformable to the provisions hereinbefore contained, for the better administration of insolvent estates, and may with the like sanction alter any such rules.

Power to exclude any class from operation of such rules.

32. The Local Government may at any time, with the previous sanction of the Governor General in Council, exclude any particular class or race from the operation of these rules.

Saving of previous insolvency proceedings.

33. No proceedings of any Court in the exercise of insolvency jurisdiction, had before the passing of this Act, shall be held to have been invalid solely on the ground that such Court did not possess such jurisdiction; all cases pending in any Court of Insolvency when this Act comes into force, shall be subsequently conducted, so far as may be, in conformity with the rules now prescribed.

MINORS AND THE COURT OF WARDS.

Deputy Commissioners to be Courts of Wards.

34. Deputy Commissioners shall be Courts of Wards within their respective districts, but shall exercise the functions of such Courts subject to the control of the Commissioner and Financial Commissioner.

Jurisdiction of Court of Wards.

35. The Court of Wards may, at its discretion, take charge of and administer the estates of all females, all minors under the age of eighteen, and idiots or lunatics, who may inherit any beneficial interest in any estate for which a settlement was made with their ancestor, or in respect of which they would have been entitled to be settled with, if they had been competent to make an agreement for the payment of revenue, or who are entitled by inheritance to any assignment of land-revenue:

Bar of jurisdiction in certain cases.

Provided that the Court of Wards shall not take charge of, or administer any beneficial interest in, an estate, in which more persons than one have a joint undivided

undivided interest, unless all such persons are so circumstanced as to be subject to the Court of Wards.

Deputy Commissioner may inquire into circumstances affecting jurisdiction.

36. The Deputy Commissioner may make an inquiry into the minority, lunacy or idiocy of any person, who, he has reason to believe, would, if found to be a minor, lunatic or idiot, be subject to the jurisdiction of the Court of Wards, and into the circumstances and property of any such person, and may make an order declaring such person to be subject to the jurisdiction of the Court of Wards.

Appeal to Commissioner against order under section 36.

37. Any such person may appeal to the Commissioner of the Division against any such order on the ground that he is not, or has ceased to be, a minor, or that he is not, or has ceased to be, a lunatic or idiot, and the decision of the Commissioner shall be certified to the Court of Wards, and shall be final.

Extent of jurisdiction.

38. The jurisdiction of the Court of Wards shall extend to the care and education, and to the management of the property, of the persons subject thereto; and the Local Government shall make rules as to the manner in which, and the agents by whom, such jurisdiction shall be exercised.

CRIMINAL JUDICATURE.

Indian Penal Code to apply to offences committed previous to first January 1862.

39. The provisions of the Indian Penal Code, with the exception of chapter VI, shall be applicable to all offences committed before first January 1862, in territory which was, at the time of the commission of such offence, subject to the Government of the Panjáb:

Saving of privileges conferred on certain Chiefs.

Provided that nothing contained in this section shall affect any privilege conferred on certain Chiefs in the Panjáb by the Governor General in Council, or by the Board of Administration for the affairs of the Panjáb, nor any indemnity or pardon granted by competent authority.

HONORARY POLICE OFFICERS.

Local Government may invest any person with powers of Police officer.

40. The Local Government may, if it thinks fit, confer on any person any of the powers which may be exercised by a Police officer under any Act for the time being in force.

Track Law.

41. When an offence is, has been, or may reasonably be supposed to have been, committed, and the tracks of the persons who may reasonably be supposed to have committed such offence, or of any animal or other property reasonably supposed to be connected with such offence, are followed to a spot within the immediate vicinity of a village, the person following such tracks may call upon any Headman or Village Watchman in such village to assist in carrying on the tracks.

Trackers may call for assistance in carrying on tracks.

42. If such Headman or Watchman do not forthwith give such assistance, or if the inhabitants of such village do not afford full opportunity for search in their houses for the offenders, or if, from the circumstances of the case, there shall appear good reason to believe that the inhabitants of such village, or any of them, were conniving at the offence or at the escape of the offenders, and such offenders cannot be traced beyond the village, the Magistrate of the District may, with the previous sanction of the Commissioner of the Division, inflict a fine upon such village not exceeding five hundred rupees, except in the case of stolen property over five hundred rupees in value, in which case the fine shall not exceed the value of such property.

Penalty for withholding assistance or conniving at offence or escape.

Limit to fine.

An appeal against all convictions under this section shall lie to the Chief Court.

Appeal to Chief Court.

The Magistrate may direct that the fine imposed under this section or any part thereof, shall be awarded to any persons injured by such offence in compensation for such injury; and, in the case of stolen property recovered through the agency of a tracker, may direct that such property be not restored to its owner until he has paid to such tracker such fee, not exceeding one-fourth part of the value of the stolen property, as to the said Magistrate seems fit.

Fine may be awarded to injured parties, and fee to tracker.

Slaughter of Kine.

43. The slaughter of kine and the sale of beef shall not take place, except with the consent and subject to rules to be from time to time, either generally

Control of slaughter of kine and sale of beef.

or

or in any particular instance, prescribed by the Local Government.

ARMED MEN AND FORIIGN VAGRANTS.

Control of entry into towns of bands of armed men.

44. No band of armed men shall enter into any city or town, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

Powers of Magistrate of District as to foreign vagrants.

45. The Magistrate of the District may, if he considers that any band of foreign vagrants is likely to occasion a breach of the peace or to commit any offence under the Indian Penal Code, prohibit such band from entering his district; or, if they are already in his district, may require them within a given time to leave it.

Surveillance, &c., of band failing to comply with Magistrate's order.

46. If any such band fail to comply with the orders of the said Magistrate within the prescribed period, he shall report the matter to the Local Government, and the Local Government may give such directions for the surveillance, control or deportation of such band, as to it seems fit.

MISCELLANEOUS.

Regulation of crossing of streams on buoys or skins;

47. No person shall cross any river or stream on a buoy or inflated skin, nor shall have in his possession or custody any buoy or skin for the purpose of being used in crossing any river or stream, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

of use of pasturage or natural product of Government land;

48. No person shall make use of the pasturage or other natural product of any land being the property of the Government, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

and of growing, selling or keeping opium.

49. No person shall grow, sell or keep in his possession any opium, except with the consent and subject to rules to be from time to time, either generally or in any particular instance, prescribed by the Local Government.

50. The

50. The Local Government may issue rules as to the matters mentioned in sections forty-three to forty-nine inclusive, and may, from time to time, cancel or alter any such rules. Local Government to make rules.

Any person who breaks any rule made by the Local Government under this Act, shall be punishable with a fine not exceeding rupees fifty, or imprisonment not exceeding a period of six months, or with both: Penalty for breach of rules.

Provided—

(1) that such rules be not inconsistent with the provisions of this or any Act or law for the time being in force in the Panjáb;

(2) that, previous to notification, they be sanctioned by the Governor General in Council;

(3) that they be notified in the local Gazette.

Existing rules upon the subjects hereinbefore mentioned shall, until otherwise directed by the Local Government, be deemed to have been issued under, and in conformity to, this section. Existing rules confirmed.

51. All rules which the Local Government is empowered to issue under this Act, and all circulars issued by the Chief Court, shall, with the previous sanction of the Governor General in Council, be republished once at least in every year; and, upon such republication, shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made in the course of the preceding year, or may have become necessary or advisable, shall be embodied therewith; and upon such re-publication all such rules and circulars, previously issued, shall be repealed. Republication of rules and orders.

SCHEDULE I.

SCHEDULE I.

Enactments declared to be in force.

Explanation.—This schedule does not refer to any Act which is in its terms applicable to the Panjáb, or which has been extended to the Panjáb by competent authority.

Number and year.	Title.	Extent to which the enactment is in force.
Reg. I of 1798 ...	A Regulation to prevent Fraud and Injustice in Conditional Sales of Land under Deeds of Bye-bil-wuffa, or other Deeds of the same nature.	The whole, except such parts as relate to interest.
Reg. X of 1804 ...	A Regulation for declaring the Powers of the Governor General in Council to provide for the immediate Punishment of certain Offences against the State by the sentence of Courts Martial.	The whole, so far as it is not modified by Act V of 1841.
Reg. XVII of 1806 ...	A Regulation for extending to the Province of Benares the Rates of Interest on future Loans, and Provisions relative thereto, contained in Regulation XV, 1793; also for a general extension of the period fixed by Regulations I, 1798, and XXXIV, 1803, for the redemption of Mortgages and Conditional Sales of Land, under Deeds of Bye-bil-wuffa, Kutcubaleh, or other similar designation.	Sections seven and eight.
Reg. V of 1817 ...	A Regulation for declaring the Rights of Government and of Individuals with respect to hidden Treasure, and for prescribing the Rules to be observed on the Discovery of such Treasure.	The whole.
Reg. III of 1818 ...	A Regulation for the Confinement of State Prisoners.	The whole.
Reg. XI of 1825 ...	A Regulation for declaring the Rules to be observed in determining Claims to Lands gained by alluvion, or by derelictiion of a river or the sea.	The whole.
Reg. XX of 1825 ...	A Regulation for declaring the jurisdiction of the Military Courts Martial and Courts of Requests, constituted by a recent Act of Parliament, and for modifying some parts of the existing Regulations in conformity thereto.	Sections two and four.
Act XL of 1858 ...	An Act for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal.	The whole.

SCHEDULE I.

Enactments declared to be in force—(continued).

Number and year	Title.	Extent to which the enactment is in force.
Act XVII of 1861 ..	An Act to amend Act XIV of 1843 (for regulating the Customs Duties in the North-Western Provinces).	The whole, the word "Panjáb" being substituted for the words "North-Western Provinces."
	"Rules for the conservancy of Forests and Jungles in the Hill Districts of the Panjáb Territories, sanctioned by the Governor General in Council, in letter of the Secretary to the Government of India, No. 1789, 21st May 1855."	The whole.

SCHEDULE II.

Enactments repealed.

Number and year.	Title.	Extent of repeal.
	All Bengal Regulations now in force in the Panjáb, except those specified in schedule 1.	The whole.
	All rules, laws and regulations made for the Panjáb and its Dependencies, or for any part thereof, by the Governor General of India, or the Governor General of India in Council or the Lieutenant-Governor of the Panjáb otherwise than at meetings for making laws and regulations in conformity with the provisions of the Acts of the 3rd and 4th years of King William the Fourth, Chapter eighty-five, and of the 16th and 17th years of Her Majesty, Chapter ninety-five, or other Act in force for the time being, except those specified in schedule I.	The whole.
Act VI of 1846 ...	An Act for the more convenient administration of the government of the country called the Bhuttee Territory.	The whole.
Act I of 1847 ...	An Act for the establishment and maintenance of Boundary-marks in the North-Western Provinces of Bengal.	The whole, so far as it affects the Panjáb.

SCHEDULE II.

Enactments repealed—(continued).

Number and year.	Title.	Extent of repeal.
Act III of 1870 ...	An Act to remove the Agror Valley from the jurisdiction of the tribunals established under the general Regulations and Acts, and for other purposes.	The whole, so far as it is unrepealed.

Office of Supdt Govt. Printing—No. 11 L C.—7-5-72—3,200.

ACT No. V of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 28*th March* 1872).

An Act to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sind.

Preamble.

WHEREAS it is expedient to remove doubts which have arisen as to the jurisdiction of the High Court of Bombay over the Province of Sind; It is hereby enacted as follows:—

Bar of jurisdiction in Sind of Bombay High Court.

1. The High Court of Bombay has not, and shall be deemed never to have had, jurisdiction over the Province of Sind.

[*Price one anna.*]

Office Supdt. Govt. Printing.—No. 12 L. D.—7-5-72.—3,000.

ACT No. VI of 1872.

Passed by the Governor General of India in Council.

(Received the assent of the Governor General on the 5th April 1872.)

An Act to amend the law relating to Oaths and Affirmations.

WHEREAS it is expedient to amend the law relating to oaths and affirmations; It is enacted as follows:— Preamble.

1. This Act may be called "The Oaths Act, 1872." Short title.

2. It extends to British India, applies to all oaths or affirmations taken or made by or administered to British subjects in Native Indian States, Extent.

and it shall come into force on the passing thereof. Commencement.

3. Every person who may by law be sworn or called upon to make a solemn affirmation, in any capacity whatever, may, if he objects to such oath or solemn affirmation, make in place thereof a simple affirmation to the same effect, omitting the words 'So help me God,' 'In the presence of Almighty God,' or other expressions of the same nature. Persons liable to be sworn may, if they object to oath, make simple affirmation.

4. If any party to, or witness in, any judicial proceeding offers to give evidence on oath in any form common amongst, or held binding by, persons of the race or persuasion to which he belongs, and not repugnant to justice or decency, and not purporting to affect any third person, the Court may, if it thinks fit, tender such oath to him. Powers of Court as to certain oaths when tendered by parties or witnesses.

If any party to any proceeding offers to be bound by any such oath as is mentioned in the first paragraph of this section, if such oath is taken by the other party to, or by any witness in, such proceeding, the Court may, if it thinks fit, ask such party or witness whether he will take the oath or not.

If

[*Price one anna and three pies.*]

If such party or witness accepts such oath, the Court may proceed to administer it, or if it is of such a nature that it may be more conveniently taken out of Court, the Court may issue a Commission to any person to administer it, and authorize such person to take the evidence of the person to be sworn and return it to the Court.

The evidence so given shall, as against the person who offered to be bound by it, be conclusive proof of the matter stated.

If the party or witness refuses to take the oath he shall not be compelled to take it, but the Court shall record, as part of the proceedings, the nature of the oath proposed, the facts that he was asked whether he would take it, and that he refused it, together with any reason which he may assign for his refusal.

Proceedings and evidence not invalidated by omission of oath or irregularity.

5. No omission to take any oath or to make any solemn or simple affirmation, no substitution of any one for any other of them, and no irregularity whatever in the form in which any one of them is administered, shall invalidate any proceeding or render inadmissible any evidence whatever, in or in respect of which such omission, substitution or irregularity took place.

Saving of certain oaths and affirmations.

6. Nothing in this Act shall apply to oaths or affirmations prescribed by any law which, under the provisions of the Indian Councils' Act, 1861, the Governor General in Council has not the power to repeal.

Office of Supdt. Printing.—No. 14 L. D.—7-5-72.—3,300.

THE BURMA COURTS ACT, 1872.

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.

PRELIMINARY.

SECTION.

1. Short title.
   Extent.
   Commencement.
2. Pending suits to be disposed of by Courts in which instituted.
3. Abolition of certain Courts.
4. Transfer of suits pending in Courts of Chief Commissioner and Recorders.
5. Repeal of Acts.

CHAPTER II.

LAW TO BE ADMINISTERED.

6. Certain decisions to be according to Native law.
7. Law to be administered in Court of Recorder of Rangoon.

CHAPTER III.

CONSTITUTION AND POWERS OF COURTS.

8. Civil jurisdiction of Courts.
9. Powers of Judicial Commissioner in criminal matters; of Commissioner, and of Judge of Maulmain.
10. Power to fix number of Courts.
11. Chief Commissioner to fix local jurisdiction of Courts.
12. Confirmation of existing Courts and presiding officers.
13. Seal to be used.
    Place for holding Court.
14. Superintendence over Courts.
15. List of holidays.

SPECIAL JURISDICTION.

16. Chief Commissioner may give special jurisdiction.

17. Chief

[*Price seven annas and three pies.*]

SECTION.

17. Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.
18. Exercise, by Chief Commissioner, of powers of Local Government.
19. Exercise by one Court, within limits of another of same grade, of powers of latter.

PROCEDURE.

20. Procedure when subject-matter of suit is situate within jurisdiction of different Courts.
21. Presiding officer of Court not to try suit or appeal in which he is interested;
but to transfer to superior Court;
which may try or transfer to other Court.
Trial of appeal from order of Judicial Commissioner in other capacity, or in which he is interested.

APPOINTMENT AND REMOVAL.

22. Appointment of officers.
23. Suspension and removal of presiding officers.
24. Appointment of ministerial officers of Courts.
25. Power to fine, suspend, or remove such officers.
26. Recovery of fines.
27. General control of Chief Commissioner over appointments and removals of ministerial officers.

CIVIL APPEALS.

28. Time allowed for presenting appeals to Commissioner.
29. Transfer of civil appellate jurisdiction to Judicial Commissioner.
30. Confirmation of decision of Lower Court without summoning respondent.
31. Reference to Judicial Commissioner.
32. Procedure on such reference.
Costs of reference.
33. When Judicial Commissioner may receive second appeal.
34. When decision of first Appellate Court to be final.
35. Reference to Judicial Commissioner when decision of Lower Court confirmed on certain points.
36. Procedure of Judicial Commissioner thereupon.
37. Reference by Judicial Commissioner to High Court.
Procedure thereupon.
38. Provisions as to costs to apply.

PART II.

CHAPTER IV.

COURT OF THE RECORDER OF RANGOON.

39. Court of Recorder of Rangoon.

Appointment

BENGAL SECRETARIAT LIBRARY.

SECTION.

Appointment of Recorder.
Place of holding Court.
Seal to be used.

CIVIL JURISDICTION.

40. Local limits of ordinary civil jurisdiction of Recorder.
41. Civil jurisdiction of Recorder.
42. No appeal from Recorder's Court in certain cases.
When appeal to lie to High Court.
43. Assessors in civil suits.
Remuneration to assessor appointed at desire of suitor.
44. Miscellaneous jurisdiction.
45. Recorder's powers in respect of Small Cause Court, Rangoon.
46. Grant of new trial on application within given time.
And review of judgment.
Security from applicant for either.
47. In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.
48. And decree may be passed contingent thereon; but, pending receipt, execution not to issue.
49. Full bench to deal with cases referred.
50. And parties may appear in person, or by Advocate, &c.
Transmission of judgment of High Court, and proceeding thereupon.
Costs of reference to High Court.
51. Transfer of suits to Recorder's Court.
Trial of such suits.
52. Disposal of suit where Recorder is interested.
Jurisdiction of Judicial Commissioner in cases transferred.

CRIMINAL JURISDICTION.

53. Recorder to exercise powers of Session Court within his civil jurisdiction.
54. And powers of revision of High Court as to proceedings of Magistrates.
55. And powers of High Court as to European British subjects.
56. Proceedings to be regulated by Code of Criminal Procedure.
Liability of military officers to serve as jurors.
List of officers liable to serve.
Officer summoned not excusable except for urgent military duty.
57. Sentence of death to be referred to High Court.

ADVOCATES.

58. Licensing of Advocates, and rules regarding qualifications and admission.

Saving

SECTION.

Saving of agent for Secretary of State, &c.
And of Advocates, &c., of High Courts.
License may be suspended or withdrawn.
59. Fees of Advocates, &c., subject to taxation.

RULES OF THE COURT.

60. Provision for discharge of duties of Recorder in case of vacancy in his office.
61. Appointment and removal of ministerial officers.
62. Registers, &c., to be kept, and returns to be submitted by Recorder.
63. Power to make rules of practice.
64. Rules for service and execution of process, and table of fees for same.
Publication of same.
65. Holidays and vacations.
Rules before made to be in force until others made under this Act.

CHAPTER V.

SPECIAL COURT.

66. Constitution of Special Court.
67. Precedence in Special Court.
Use of seal.
68. Rules for Special Court.
69. Appeals from Judge of Maulmain.
70. Judicial Commissioner and Recorder may sit as Special Court at the request of either.
71. Chief Commissioner may direct cases to be tried by Special Court.
72. Decree of Special Court to be deemed a decree of original Court.
73. Appeals from Recorder of Rangoon in criminal cases.
74. Powers of Court of Reference exercisable by Special Court.
75. Rules as to finding of Special Court in case of difference of opinion arising.
76. Decree may be passed contingent on opinion of High Court, but execution not to issue.
77. Procedure of High Court on reference.

CHAPTER VI.

MISCELLANEOUS.

78. Amendment of section 7, Act XV of 1869.
79. Saving of trials by Commissioner of Akyab as a Court of Session.

SCHEDULE—Enactments repealed.

ACT No. VII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 5th April* 1872).

An Act to consolidate and amend the Law relating to the Courts in British Burma.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in British Burma; It is hereby enacted as follows:— Preamble.

PART I.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Burma Courts Act, 1872:" Short title.

It extends to all the territories under the Chief Commissioner of British Burma; Extent.

and shall come into force on the passing thereof. Commencement.

2. All suits, appeals, applications or proceedings, instituted previous to the passing of this Act in any Court, other than the Courts of the Chief Commissioner and the Recorders of Rangoon and Maulmain, respectively, shall be heard and disposed of by the Courts in which they were instituted. Pending suits to be disposed of by Courts in which instituted.

3. From the date of the passing of this Act the Court of the Chief Commissioner and the Courts of the Recorders of Rangoon and Maulmain, as established by Act XXI of 1863, shall cease to exist. Abolition of certain Courts.

4. All

Transfer of suits pending in Courts of Chief Commissioner and Recorders.

4. All suits, appeals, applications or proceedings pending in the Court of the Chief Commissioner, shall be transferred to the Court of the Judicial Commissioner; those pending in the Court of the present Recorder of Rangoon shall be transferred to the Court of the Recorder of Rangoon to be established under this Act; and those pending in the Court of the Recorder of Maulmain shall, if they are of a civil nature, be transferred to the Court of the Judge of the Town of Maulmain, and if they are of a criminal nature, to the Court which has jurisdiction under this Act.

Repeal of Acts.

5. The Acts mentioned in the schedule hereto annexed are hereby repealed to the extent mentioned in the third column thereof.

CHAPTER II.

LAW TO BE ADMINISTERED.

Certain decisions to be according to Native law.

6. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

the Buddhist law in cases where the parties are Buddhists,

the Muhammadan law in cases where the parties are Muhammadans, and

the Hindú law in cases where the parties are Hindús,

shall form the rule of decision, except in so far as such law has, by legislative enactment, been altered or abolished, or is opposed to any custom having the force of law in British Burma.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

Law to be administered in Court of Recorder of Rangoon.

7. Except as provided in section six all questions of fact, law and equity arising in suits before the Recorder of Rangoon shall be dealt with and determined

mined according to the law administered by the High Court at Fort William in Bengal, in the exercise of its ordinary original civil jurisdiction.

CHAPTER III.

CONSTITUTION AND POWERS OF COURTS.

Civil jurisdiction of Courts.

8. The Courts mentioned in the first column of the subjoined table shall ordinarily have such civil jurisdiction respectively, in the adjudication of suits arising within their local jurisdiction, as is specified in the second column thereof:

Name of Court.	Extent of Jurisdiction.
(1.) The Court of the Extra Assistant Commissioner of the third class.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed rupees five hundred.
(2.) The Court of the Extra Assistant Commissioner of the second and first class, and the Assistant Commissioner.	Powers of a Civil Court where the amount or value of the subject-matter of the suit does not exceed rupees three thousand.
(3.) The Court of the Deputy Commissioner.	Powers of a Civil Court in all suits, whatever be the value or the amount of the subject-matter thereof. Powers of a District Judge. Power to hear appeals from decrees and orders in original suits and proceedings of the Courts of grades (1) and (2), where such appeal is allowed by law. Power to direct the business in the Courts of grades (1) and (2) to be distributed among such Courts in such way as he thinks fit.
(4.) The Court of the Judge of the Town of Maulmain.	Powers of a District Judge. Powers of a Civil Court, whatever be the amount or value of the subject-matter of the suit. Powers of a Court of Small Causes, where the amount or value of the subject-matter of the suit does not exceed rupees one thousand.
(5.) The Court of the Commissioner.	Power to withdraw any suit or appeal instituted in any Court within the local limits of his jurisdiction, except a Court of Small Causes, or the Court of the Judge of the Town of Maulmain, and try such suit or appeal himself or refer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of grade (3), where such appeal is allowed by law.
(6.) The Court of the Judicial Commissioner.	Powers of a High Court, in relation to all Courts in British Burma, including Small Cause Courts, except the Court of the Recorder of Rangoon, and the Court of Small Causes of Rangoon. Power to remove and try any suit, appeal or other proceeding instituted in any subordinate Court, except a Court of Small Causes, or to refer it to any Court of competent jurisdiction as to the value or amount of the subject-matter thereof. Power to hear appeals from decrees and orders in original suits and proceedings of the Court of the Commissioner, where such appeal is allowed by law.

Provided

Provided that, where a Small Cause Court is established within the local limits of the jurisdiction of the Courts (1), (2) and (3), the said Courts shall not take cognizance of any suit cognizable by such Court of Small Causes.

Powers of Judicial Commissioner in criminal matters;

9. The Judicial Commissioner shall be deemed to have and to have had the powers of a High Court in criminal matters in relation to all Courts in Burma, except that of the Recorder of Rangoon, and of Magistrates within the local limits of the ordinary civil jurisdiction of the said Recorder:

of Commissioner,

The Commissioner shall be deemed to have and to have had the powers of a Sessions Judge:

and of Judge of Maulmain.

The Judge of the Town of Maulmain shall have the powers of a Sessions Judge.

Power to fix number of Courts.

10. The Governor General in Council shall fix, and may from time to time vary, the number of Courts of each grade to be established under this Act.

Chief Commissioner to fix local jurisdiction of Courts.

11. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, fix, and may with the like sanction from time to time vary, the local limits of the jurisdiction of any Court mentioned in section eight.

Confirmation of existing Courts and presiding officers.

12. All existing Courts, corresponding to the Courts mentioned in section eight, and the presiding officers and the local limits thereof, shall be deemed to have been respectively established, appointed and fixed under this Act.

Seal to be used.

13. Every Court mentioned in section eight shall—

(1) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner;

Place for holding Court.

(2) be held at such place or places as may from time to time be directed by the Chief Commissioner; or, in the absence of any such direction, at any place within the local jurisdiction of the Court which the presiding officer thinks fit.

Superintendence over Courts.

14. The general superintendence over all the Courts of the first five grades mentioned in section eight is vested in, and the said Courts shall be subordinate to, the Judicial Commissioner; and, subject to such general superintendence, the Commissioner shall have

have control over the Courts of the Deputy Commissioners within his Division, and the Deputy Commissioner over all the Courts of the first and second grades within his district.

List of holidays.

15. Subject to the orders of the Chief Commissioner, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in his Court and the Courts subordinate to him.

Special Jurisdiction.

Chief Commissioner may give special jurisdiction.

16. The Chief Commissioner may invest any Assistant Commissioner, or Extra Assistant Commissioner of the first or second class, with power to try suits of which the amount or value does not exceed five thousand rupees.

Chief Commissioner may invest certain Courts with powers of Judge of Court of Small Causes.

17. The Chief Commissioner may invest any presiding officer of the Courts of grades (2) and (3) mentioned in section eight with the powers of a Judge of a Court of Small Causes, to hear and determine suits of a nature cognizable by a Court of Small Causes, and of such value or amount as he thinks fit, not exceeding five hundred rupees.

Any Court so invested shall, in the exercise of the powers so conferred, be governed by the provisions of the law for the time being in force regulating the procedure of Courts of Small Causes.

Exercise, by Chief Commissioner, of powers of Local Government.

18. The Chief Commissioner may exercise the powers conferred on the Local Government by section seven of Act XI of 1865.

Exercise by one Court, within limits of another of same grade, of powers of latter.

19. The Chief Commissioner may empower the presiding officer of any Court mentioned in section eight to exercise the powers which might be exercised by the presiding officer of any other Court of the same grade, within the local limits of the jurisdiction of the latter Court.

Procedure.

Procedure when subject-matter of suit is situate within jurisdiction of different Courts.

20. Where a suit is brought for immoveable property situate within the local jurisdiction of different Courts included in the same Division, application for authority to proceed with the same shall be made to the Commissioner of the Division:

If

If the said Courts belong to different Divisions, the application shall be made to the Judicial Commissioner, through the Commissioner of the Division in which the Court wherein the suit was instituted is included:

If either of the said Courts is the Court of the Recorder of Rangoon, the application shall be made to the Chief Commissioner.

Presiding officer of Court not to try suit or appeal in which he is interested;

21. No presiding officer of any Court mentioned in section eight shall, unless with the consent of the parties or the direction of the Chief Commissioner, try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal:

but to transfer to superior Court;

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith, unless the parties apply that he proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference:

which may try or transfer to other Court.

The superior Court shall thereupon try the case itself, or transfer it for trial to any subordinate Court of competent jurisdiction as to the amount or value of the subject-matter of the suit.

Trial of appeal from order of Judicial Commissioner in other capacity or in which he is interested.

In the event of an appeal being preferred to the Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Judicial Commissioner to try the case himself or transfer it to the Court of the Recorder of Rangoon.

Appointment and Removal.

Appointment of officers.

22. The presiding officers of all the Courts except that of the Extra Assistant Commissioner of the third class shall be appointed by the Governor General in Council.

The

The Extra Assistant Commissioner of the third class shall be appointed and may be removed by the Chief Commissioner.

Suspension and removal of presiding officers.

23. The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any Court except the Courts of the Judicial Commissioner and the Recorder of Rangoon may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

Appointment of ministerial officers of Courts.

24. The ministerial officers of the Courts of grades (1) and (2) mentioned in section eight shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

The ministerial officers of all other Courts shall be appointed by the presiding officers thereof;

provided that the appointment of every ministerial officer of a Court subordinate to the Judicial Commissioner, whose monthly salary exceeds fifty rupees, shall be subject to the sanction of the Judicial Commissioner.

Power to fine, suspend or remove such officers.

25. Every Court of the grades (1) and (2) mentioned in section eight may fine in an amount not exceeding one month's salary any of its ministerial officers who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control of the Commissioner, may on appeal or otherwise reverse or modify any such order; and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of a Court subordinate to him.

The presiding officer of any of the Courts of grades (4), (5) and (6) mentioned in section eight and of any Court of Small Causes, may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary; but every such removal or suspension of an officer whose salary exceeds fifty rupees per month shall be subject to the review of the Judicial Commissioner.

26. Any

26. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Recovery of fines.

27. The Chief Commissioner shall have a power of general control over all appointments and removals of ministerial officers under this Act.

General control of Chief Commissioner over appointments and removals of ministerial officers.

Civil Appeals.

28. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order.

Time allowed for presenting appeals to Commissioner.

29. The Chief Commissioner may direct that the civil appellate jurisdiction of any Commissioner shall be transferred to the Judicial Commissioner, either wholly or in respect of a particular suit or class of suits, and either for a specified time or until further orders. The Chief Commissioner may also at any time direct that any appellate jurisdiction which has been so transferred to the Judicial Commissioner shall revert to the Commissioner from whom it was so transferred.

Transfer of civil appellate jurisdiction to Judicial Commissioner.

30. The Appellate Court may confirm the decision of the Lower Court without summoning the respondent if, upon perusal of the judgment of the Lower Court and of the petition of appeal in the presence of the appellant or his pleader, there appear to the Appellate Court to be no reason to alter the decision appealed from.

Confirmation of decision of Lower Court without summoning respondent.

31. When in the trial of any civil appeal, the Appellate Court entertains a doubt in regard to a question of law or usage having the force of law, or as to the construction of a document, or as to the admissibility of any evidence affecting the merits of the case, such Court may draw up a statement of the point as to which it is in doubt, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

Reference to Judicial Commissioner.

32. The

Procedure on such reference.

32. The Judicial Commissioner shall, after considering the point so referred, send a ruling thereon to the Court by which the reference was made; and such Court shall, on the receipt of such ruling, proceed to dispose of the case in conformity therewith.

Costs of reference.

The costs, if any, consequent on any such reference to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

When Judicial Commissioner may receive second appeal.

33. If in any suit the decision of the Deputy Commissioner or of the Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

When decision of first Appellate Court to be final.

34. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a matter of fact, such decision shall be final.

Reference to Judicial Commissioner when decision of Lower Court confirmed on certain points.

35. If the Court of first appeal confirms the decision of the Court of original jurisdiction on a question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence affecting the merits of the case, the party aggrieved by such decision may apply to such Court to draw up a statement of the point as to which he considers such Court to have made an incorrect ruling and to submit it to the Judicial Commissioner.

Such application shall not be admitted, unless it is made within the period and after payment of the fee prescribed by law for petitions of appeal.

If the Court consider that there is a question of law or custom having the force of law, or as to the construction of a document or admissibility of evidence affecting the merits of the case, it shall make a statement of the same and of such facts only of the case as are necessary to explain it, and shall submit such statement, together with the record of the case, to the Judicial Commissioner.

If the Court refuses to make such statement, it shall record in writing its reasons for so refusing.

36. The

36. The Judicial Commissioner shall, with as little delay as possible, proceed to try the case referred, as if it were an appeal instituted in his Court, except that it shall not be necessary for the parties to be present: the Judicial Commissioner shall send a copy of his judgment to the Court by which the case was submitted, and the said Court shall dispose of the case in conformity with such judgment.

Procedure of Judicial Commissioner thereupon.

37. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal made or case referred under this Act, he may make a reference to the High Court of Fort William in Bengal, and shall send the record of the said appeal or case and all the proceedings connected therewith to the said Court.

Reference by Judicial Commissioner to High Court.

The procedure prescribed by section thirty-six shall as nearly as possible be followed by the High Court in the disposal of references made under this section.

Procedure thereupon.

38. The provisions of section thirty-two as to the adjustment of costs, shall apply to cases referred under sections thirty-five and thirty-seven.

Provisions as to costs to apply.

PART II.

CHAPTER IV.

Court of the Recorder of Rangoon.

39. There shall be a Court, to be called the Court of the Recorder of Rangoon.

Court of Recorder of Rangoon.

The Recorder shall be appointed by the Governor General in Council, and shall be a Barrister of not less than five years' standing, and shall hold his office during the pleasure of the Governor General in Council.

Appointment of Recorder.

He shall hold his Court ordinarily in the Town of Rangoon; but the Chief Commissioner may direct him on any particular occasion to hold his Court either at Akyab or Maulmain for the trial of Civil suits or appeals transferred to him, or Criminal cases in which European British subjects are concerned.

Place of holding Court.

He shall use a seal of such form and dimensions as are for the time prescribed by the Chief Commissioner.

Seal to be used.

Civil Jurisdiction.

Local limits of ordinary civil jurisdiction of Recorder.

40. The present local limits of the jurisdiction of the Recorder of Rangoon shall be the local limits of the ordinary civil jurisdiction of the Recorder appointed under this Act; but the Chief Commissioner may from time to time, with the previous sanction of the Governor General in Council, vary such limits.

Civil jurisdiction of Recorder.

41. The Court of the Recorder shall have jurisdiction in the adjudication of suits of every description, except those which are cognizable by a Court of Small Causes, if, in the case of immoveable property, the subject-matter of the suit is situate, or if, in all other cases, the defendant at the time of the commencement of the suit dwells or carries on business or personally works for gain, within the limits mentioned or referred to in section forty. Where such immoveable property is situate partly within the local jurisdiction of the Recorder and partly within the jurisdiction of some other Court, the Chief Commissioner shall determine by what Court the suit shall be tried.

No appeal from Recorder's Court in certain cases.

42. There shall be no appeal from the decree or order of the Recorder, passed in any original suit or proceeding, where the amount or value of the subject-matter thereof does not exceed three thousand rupees.

When appeal to lie to High Court.

Where such amount or value exceeds three thousand rupees, and is less than the amount for which an appeal will lie to Her Majesty in Council under the law for the time being in force regulating such appeals, an appeal shall lie to the High Court of Judicature at Fort William in Bengal.

Assessors in civil suits.

43. For the trial of civil suits under this Act, the Recorder may constitute one or more persons assessor or assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No officer of the Recorder's Court shall be appointed an assessor under this section.

If

If any such assessor is appointed at the desire of the parties to a suit or either of them, such parties or party shall deposit such sum as the Recorder decides to be reasonable compensation to such assessor for his time and trouble. Such sum shall be recoverable as costs in the case.

Remuneration to assessor appointed at desire of suitor.

44. The Recorder shall, within the local limits of his ordinary civil jurisdiction, exercise the powers of a District Judge; and he shall also exercise the powers of a District Judge under Act IV of 1869 (*The Indian Divorce Act*) throughout British Burma.

Miscellaneous jurisdiction.

45. The Recorder shall, in respect of the Court of Small Causes in Rangoon, exercise the powers of a High Court.

Recorder's powers in respect of Small Cause Court, Rangoon.

46. The Recorder may, if he thinks fit, grant a new trial in any suit tried by him, if, in suits relating to land or other immoveable property, such new trial be applied for within three months from the date of the decision; and, in all other cases, if it be applied for within thirty days from the date of the decision: Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications: Provided also that, in any case in which the Recorder thinks it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

Grant of new trial on application within given time.

And review of judgment.

Security from applicant for either.

47. If in any suit, any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision, arises, on which the Recorder entertains any doubt, the Recorder may, either of his own motion, or on the application of the parties to the suit or either of them, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal.

In case of doubt as to certain questions, statement of case may be submitted for decision of High Court.

48. The

And decree may be passed contingent thereon; but, pending receipt, execution not to issue.

48. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case, in which a reference has been made to the High Court, until the receipt of the order of that Court.

Full bench to deal with cases referred.

49. Cases referred under section forty-seven for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

And parties may appear in person, or by Advocate, &c.

Transmission of judgment of High Court, and proceeding thereupon.

50. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; but they shall not be bound so to appear; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Costs of reference to High Court.

Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Transfer of suits to Recorder's Court.

Trial of such suits.

51. The Chief Commissioner may direct the transfer to the Recorder's Court of any suit or appeal which may have been instituted in any Court in British Burma other than the said Recorder's Court. Every case so transferred shall be tried and determined by the Recorder in the same manner as if he had originally had jurisdiction in such case and it had been instituted in his Court.

Disposal of suit where Recorder is interested.

52. When any suit or proceeding comes before the Recorder of Rangoon, in which he is a party or personally interested, he shall, unless the parties apply that he proceed with the case himself, report the fact to the Chief Commissioner, who shall either direct the Recorder to try the case himself, or transfer it to the Court of the Judicial Commissioner.

Jurisdiction of Judicial Commissioner in cases transferred.

The Judicial Commissioner shall have the same jurisdiction in the adjudication of cases so transferred, as the Recorder has in suits and proceedings cognizable by him under this Act, and the provisions of sections

sections forty-six to fifty inclusive shall apply to such cases.

Criminal Jurisdiction.

53. The Recorder shall exercise the powers of a Court of Session, as defined in the Code of Criminal Procedure, within the local limits of his ordinary civil jurisdiction: Provided that sentences of death passed by him as a Court of Session, shall be subject to the confirmation of the Special Court.

Recorder to exercise powers of Session Court within his civil jurisdiction.

54. The Recorder shall exercise the powers exercisable by a High Court as a Court of Revision, in respect of the proceedings of Magistrates within the local limits of his ordinary civil jurisdiction.

And powers of revision of High Court as to proceedings of Magistrates.

55. The Recorder shall exercise the powers of a High Court for the trial of European British subjects; and all commitments of European British subjects on charges of offences committed within British Burma, which would, according to the law for the time being relating to Criminal Procedure, be made to a High Court, shall be made to his Court.

And powers of High Court as to European British subjects.

56. The proceedings on trials held by the Recorder for the trial of European British subjects, shall be regulated by the Code of Criminal Procedure:

Proceedings to be regulated by Code of Criminal Procedure.

Provided that European officers in the Military Service, Commissioned and Non-Commissioned, resident within ten miles of the place of sitting of the Court, shall be liable to serve as jurors for the trial of European British subjects.

Liability of Military officers to serve as jurors.

The Officer Commanding the Station where the Court of Session is about to be held shall, when required, send in to the Court a list containing the names of all officers liable to serve.

List of officers liable to serve.

The summons to any such officer to serve as a juror shall be sent through the Officer Commanding the Station; but no officer shall be excused from attendance, unless the Officer Commanding the Station shall certify in writing to the Court that the presence of the officer summoned is required elsewhere on urgent military duty: and in such certificate the Commanding

Officer summoned not excusable except for urgent military duty.

Commanding Officer shall supply the name of some other officer for service upon the jury.

Sentence of death to be referred to High Court.

57. Sentences of death passed in the exercise of the powers conferred by section fifty-five shall not be carried out without the confirmation of the High Court at Fort William in Bengal, to whom such sentences shall be referred.

Advocates.

Licensing of Advocates, and rules regarding qualifications and admission.

58. No person shall be permitted to appear or act as the Advocate of any suitor in the Court of the Recorder, unless such person has been licensed thereto by the Recorder, either generally or specially; and the Recorder may make rules for the qualification and admission of proper persons to act as Advocates in his Court, and may from time to time cancel, vary or add to, any such rules: Provided that nothing in this section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting on his own behalf or on behalf of a co-suitor: Provided also that any person, who for the time being is an Advocate, Vakíl, or Attorney-at-law of any of the High Courts of Judicature in India, shall be entitled, without any such license, to act as an Advocate for any suitor in the Court of the Recorder.

Saving of agent for Secretary of State, &c.

And of Advocates, &c., of High Courts.

License may be suspended or withdrawn.

The Recorder may, for any sufficient reason, suspend or withdraw any license granted under this section. Any person aggrieved by such suspension or withdrawal may appeal to the High Court of Judicature at Fort William in Bengal.

Fees of Advocates, &c., subject to taxation.

59. The fees to be received by any Advocate, whether generally or specially licensed by the Recorder, or entitled to act in his Court as an Advocate for another person without a license under section fifty-eight of this Act, shall at all times be subject to the control and taxation of the said Recorder, and no fees shall be recoverable by any Advocate, except such fees as shall have been allowed by the Recorder on taxation.

Rules

Rules of the Court.

60. Upon the occurrence of any vacancy in the office of Recorder of Rangoon and during any absence of the Recorder, the Chief Commissioner may direct the Judicial Commissioner or any Commissioner to perform the duties of the Recorder; and the Judicial Commissioner or the Commissioner so directed shall thereupon be authorized to preside in the Court of the Recorder, and to exercise the jurisdiction of the Recorder until some person shall have been appointed by the Governor General in Council to fill or officiate in the office of the Recorder, and shall have entered upon the discharge of the duties of such office, or until the Recorder shall have returned from such absence.

Provision for discharge of duties of Recorder in case of vacancy in his office.

61. The ministerial officers of the Court of the Recorder of Rangoon shall be appointed by the Recorder, who may also remove or suspend them, or fine them in an amount not exceeding one month's salary; but the suspension or removal of any officer drawing a salary of one hundred rupees or upwards, shall be subject to the orders of the Chief Commissioner.

Appointment and removal of ministerial officers.

62. The Recorder shall keep such registers and books and accounts, and submit to the Chief Commissioner such statements and returns as may, subject to the approval of the Governor General in Council, be prescribed by the Chief Commissioner. The said Recorder shall also comply with such requisitions for information as are made by the Chief Commissioner, and generally, in matters not judicial, shall be subject to the control of the Chief Commissioner.

Registers, &c., to be kept, and returns to be submitted, by Recorder.

63. The Recorder may make and issue general rules for regulating the practice and procedure of his Court, and may prescribe forms for every proceeding therein for which he thinks that a form should be provided, and may from time to time alter any such rule or form; and the rules so made, and the forms so framed, shall be published in the local official Gazette, and after being so published shall be observed and used in the said Court: Provided that

Power to make rules of practice.

that such rules and forms shall not be inconsistent with the Codes of Civil or Criminal Procedure or any other law for the time being in force, and shall, before they are published, have received the sanction of the Chief Commissioner.

Rules for service and execution of process, and table of fees for same.

64. The Recorder may, with the previous sanction of the Chief Commissioner, make, and may from time to time alter, rules to regulate the service and execution of the processes of his Court within the local limits of his jurisdiction; and may settle a table of fees to be allowed to the persons employed in such service or execution. All such rules and tables shall be published in the local official Gazette, and shall thenceforth have the force of law.

Publication of same.

Holidays and vacations.

65. The Recorder shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in his Court, and shall submit the same for the sanction of the Chief Commissioner.

Rules before made to be in force until others made under this Act.

Rules heretofore made to regulate the service and execution of process under Act XXI of 1863, or Act III of 1866, shall be deemed to be in force until superseded by rules made under this Act.

CHAPTER V.

SPECIAL COURT.

Constitution of Special Court.

66. The Special Court under this Act shall ordinarily be constituted by the Judicial Commissioner and the Recorder of Rangoon sitting together; but the Chief Commissioner may direct any Commissioner to sit in the Court as an additional Judge. Such Commissioner shall record his opinion in the case, and in case of a difference of opinion, the opinion of the majority shall be the decision of the Court.

Precedence in Special Court.

67. When the Judicial Commissioner and Recorder sit together as a Special Court, the senior officer, according to priority of appointment, shall have the precedence in the Court so formed.

Use of seal.

The Special Court shall use a seal of such form and dimensions as the Chief Commissioner from time to time directs.

68. The

68. The Judicial Commissioner and the Recorder of Rangoon may, in concurrence, and subject to the sanction of the Chief Commissioner, frame rules of practice for regulating the times and places of the sittings of the Special Court.

Rules for Special Court.

69. Appeals from orders and decrees passed by the Judge of the Town of Maulmain in civil suits and proceedings shall, where an appeal is allowed by law, be heard and determined by the Special Court. Such appeals shall be presented in the Court of the Judicial Commissioner.

Appeals from Judge of Maulmain.

70. If, in any civil suit or appeal, or in any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, the one Court wishes to obtain the opinion of the other on any question of fact or law, or usage having the force of law, or the construction of a document, or wishes to obtain the assistance of the other for the determination of the case pending before it, such Court shall record a memorandum to that effect; and after the receipt of a copy of such memorandum by the other Court, the Judicial Commissioner and the Recorder of Rangoon shall sit together as soon as may be convenient, and shall form a Special Court for the disposal of the said question or for the determination of the case.

Judicial Commissioner and Recorder may sit as Special Court at the request of either.

71. The Chief Commissioner may direct that any civil suit or appeal, or any criminal case or appeal, pending in the Court of the Judicial Commissioner or of the Recorder of Rangoon, shall be tried before the Special Court.

Chief Commissioner may direct cases to be tried by Special Court.

72. Any decree or sentence passed by a Special Court as above constituted on a reference made under section seventy, or in a case tried under section seventy-one, shall issue as, and be deemed to be, a decree or sentence of the Court from which the case was referred to the Special Court.

Decree of Special Court to be deemed a decree of original Court.

73. Any person convicted on a trial held by the Recorder of Rangoon as a Court of Session, may, where an appeal is allowed by law, appeal to the Special Court. Such appeal shall be presented in the Court of the said Recorder.

Appeals from Recorder of Rangoon in criminal cases.

74. The

Powers of Court of Reference exerciseable by Special Court.

74. The Special Court shall exercise the powers exerciseable by a High Court as a Court of Reference, in respect of sentences of death passed by the Recorder of Rangoon, in cases tried by him as a Court of Session.

Rules as to finding of Special Court in case of difference of opinion arising.

75. Whenever, in cases tried by the Judicial Commissioner and Recorder of Rangoon sitting together as a Special Court without a Commissioner, a difference of opinion arises in such Court, the following rules shall be observed:—

(1.) If the difference of opinion arise in a civil appeal, and if either the Judicial Commissioner or Recorder of Rangoon concur in the ruling of the Court from whose decision the appeal has been made, such ruling shall be upheld. If the difference of opinion arise as to some point of law, or custom having the force of law, or the admissibility of evidence or construction of a document affecting the merits of the case, and if either the Judicial Commissioner or the Recorder of Rangoon be of opinion that the point should be referred to the High Court of Judicature at Fort William in Bengal, they shall state the point as to which they differ, and forward the statement with their respective opinions thereon to the High Court.

(2.) In all other cases, the point shall be referred to the High Court with a similar statement of opinions.

Decree may be passed contingent on opinion of High Court, but execution not to issue.

76. Where such reference is in a civil suit, the Special Court may proceed in the case notwithstanding such reference, and may determine the suit contingently on the opinion of the said High Court on the point referred; but no final execution shall be issued in any civil case in which a reference is made, until the receipt of such opinion.

Procedure of High Court on reference.

77. The High Court shall proceed to determine the point referred as if it were an appeal instituted in such Court, except that it shall not be necessary for the parties to appear either personally or by agent. A copy of the determination of the High Court shall be sent to the Court from which the case was referred to the Special Court, and such Court shall dispose of the case accordingly.

The

The costs, if any, consequent on the reference of the case for the opinion of the High Court, shall be costs in the suit or appeal. Costs of reference.

CHAPTER VI.

MISCELLANEOUS.

78. Instead of the last paragraph of section seven of Act XV of 1869, the following shall be read :— Amendment of section 7, Act XV of 1869.

" For the purposes of this Act every jail in British Burma shall be deemed to be situate within the local limits of the appellate jurisdiction of the Judicial Commissioner; and the Recorder of Rangoon may issue orders, under this section or sections three or four, and may also issue commissions under Part III of this Act, in any jail in British Burma."

79. No trial heretofore had by the Commissioner of Akyab as a Court of Session shall be deemed to have been invalid merely on the ground that such trial was not by jury. Saving of trials by Commissioner of Akyab as a Court of Session.

SCHEDULE.

SCHEDULE.

ENACTMENTS REPEALED.

[*See section* 5.]

No. and Year.	Title.	Extent of repeal.
VIII of 1859 ...	An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.	Sections three hundred and seventy-two, three hundred and seventy-three and three hundred and seventy-four, so far as they relate to British Burma.
XXIII of 1861 ..	An Act to amend Act VIII of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.)*	Section twenty-three, section twenty-five and sections twenty-seven to thirty-four, both inclusive, so far as they relate to British Burma.
I of 1863 ...	An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.	The whole.
XXI of 1863 ...	An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns.	The whole.
XXIV of 1863 ...	An Act to amend Act I of 1863 *(to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said territory.)*	The whole.
III of 1866 ...	An Act to confer certain increased powers on the Registrars of the Recorders' Courts in British Burmah, and for other purposes.	The whole.

Office Supdt Govt. Printing.—No. 15 L D.—8-4 72.—3,100.

THE INDIAN INCOME TAX ACT.

CONTENTS.

PART I.

PRELIMINARY.

PREAMBLE.

SECTIONS.

1. Short title.
   Local extent.
   Commencement and continuance of Act.
2. Interpretation-clause.
3. Exemptions from Act.
4. Power to exempt from Act.

PART II.

DUTIES ON OFFICES.

5. Duties on offices.
6. Exemption of incomes less than Rs. 83-5-4 per mensem.
7. Deduction in case of Government officials and pensioners.
8. Deductions in case of servants and pensioners of Companies and Municipalities.
   Payment to Government.
   Indemnity.
   Annual return by Treasurer, &c.
9. Subsequent deduction of duty omitted to be levied.

PART III.

DUTIES ON PROFITS OF COMPANIES.

10. Shipping Companies.
    Other Companies.
    Statement of result of accounts.
11. Annual return of nett profits.
12. Power to require officers of Companies to attend and produce accounts.
13. Indemnity.

[*Price six annas and six pies.*]

PART IV.

Duties on Interest on Government Securities.

Sections.

14. Duty on interest.
15. Deduction of duty.
Proviso.

PART V.

Duties on all other Income.

16. Duty on income not charged under Parts II, III, IV.
17. Trustees, guardians and committees of incapacitated persons to be charged.
Non-residents charged in names of their agents.
18. Trustees or agents of persons incapacitated or non-resident to furnish statements of income.
19. Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.
20. Power to retain duties charged on trustees, &c.
Indemnity.
21. Owners of lands and houses occupying them.
Rules for assessing income from land.
22. Persons assessed under Part V of Act XII of 1871 on incomes of 1,000 rupees and upwards to be assessed at same amount.
Notice requiring returns.
23. Return how made.
24. Lists of lodgers and employees.
25. Collector to determine persons chargeable.
26. Assessment to be made on past year's income.
Assessment when assessee becomes chargeable within year.
27. Notice to persons chargeable.
28. Officer to give receipts.
29. Contents of receipt.

PART VI.

Petitions and Appeals against Assessments.

30. Petition against assessment under Part V.
Proviso.
Form and verification of petition.
31. Hearing of petition.
32. Appeal to Commissioner from order under section 12 or section 31.
Documents to accompany appeal.
Copies of petition and order exempt from fees.
Return of fees and excess.

SECTIONS.
33. Power to summon persons to give necessary information.
34. Power to issue fresh notice.

PART VII.

PAYMENT AND RECOVERY OF DUTIES.

35. Tax when payable.
Payment by instalments.
36. Recovery under revenue-law.
37. Amendment of assessment.

PART VIII.

PENALTIES.

38. Treasurers, &c., failing to make payments or deliver returns.
Trustees, &c., failing to deliver statements or declarations.
39. False statement in declaration, list or petition.
40. Prosecution to be at instance of Collector.
41. Sections 193 and 228 of Penal Code to apply to proceedings.

PART IX.

MISCELLANEOUS.

42. Bar of suits in Civil Courts.
43. Exercise of powers of Collector and Commissioner.
44. Service of notices.
45. Power to declare principal place of business.
Power to declare residence.
46. Power to prescribe forms and make rules.
SCHEDULE :—Form of petition under section 30.

ACT No. VIII of 1872.

Passed by the Governor General of India in Council.

(Received the assent of the Governor General on the 19th April 1872).

An Act for imposing Duties on Income.

FOR the purpose of imposing duties on income arising from offices, property, professions and trades; It is hereby enacted as follows:— Preamble.

PART I.

Preliminary.

1. This Act may be called "The Indian Income Tax Act:" Short title.

It extends to the whole of British India; Local extent.

It shall be deemed to have come into force on the first day of April 1872, and it shall cease to be in force on the thirty-first day of March 1873, except as to taxes payable in respect of the period previous to the said thirty-first day of March 1873 and as to penalties incurred under this Act. Commencement and continuance of Act.

The references made in the Court Fees Act, schedule II, to the Indian Income Tax Act shall be deemed to be made to this Act.

2. In this Act—unless there be something repugnant in the subject or context— Interpretation-clause.

"Income" means income and profits accruing and arising in British India: "Income."

"Magistrate" means, till the first day of September 1872, "Magistrate."

any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the First Class,

and after the said day,

any

any Magistrate of the First or Second Class; and it includes a Magistrate of Police and a Justice of the Peace:

"Company." "Company" means an Association carrying on business in British India whose stock or funds is or are divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Person." "Person" includes a firm and a Hindú undivided family:

"Defaulter." "Defaulter" includes a Company or firm making default under this Act:

"Collector." In the case of any firm or of any Company or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And, in the case of any person or Hindú undivided family chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person or family resides.

Exemptions from Act. **3.** Nothing in this Act applies to the pay and allowances of officers, warrant officers, non-commissioned officers and privates of Her Majesty's Forces or of Her Majesty's Indian Forces, who are not in Civil employment, when such pay and allowances do not exceed five hundred rupees per mensem;

or to any moveable or immoveable property solely employed for religious or charitable public purposes.

And no member of a firm or of a Hindú undivided family, which is for the time being chargeable under this Act, shall, as such, be chargeable under this Act.

Power to exempt from Act. **4.** The Governor General in Council may from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income of any tribe or class of persons in British India.

The Governor General in Council may revoke any such order.

All

All orders and revocations made under this section shall be published in the *Gazette of India.*

PART II.

Duties on Offices.

5. A duty of two pies for every rupee shall be levied in respect of every office or employment of profit in British India under Government or under a Company or a Municipal or other public body or Association not being a Company, Duties on offices.

and upon every salary, annuity or pension, paid in British India by Government or by a Company or by a Municipal or other public body or Association not being a Company to any person residing in British India or serving on board a ship plying to and from British Indian ports, whether on account of himself or another person.

6. No income amounting to less than eighty-three rupees, five annas and four pies per mensem, shall be chargeable under this Part. Exemption of incomes less than Rs. 83-5-4 per mensem.

7. In the case of every person holding any paid office, employment or commission under Her Majesty or under the Government of India, or under any Local Government, or receiving any annuity or pension from Her Majesty or any such Government, Deduction in case of Government officials and pensioners.

the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

8. In the case of every person holding a paid employment under, or receiving any annuity or pension from, any Company or any Municipal or other public body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity or pension at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act. Deductions in case of servants and pensioners of Companies and Municipalities.

Every

Payment to Government.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government from time to time directs, the amount of such deductions, and shall be answerable to such Government for such payment.

Indemnity.

Every Company, public Body or Association, Treasurer or other officer as aforesaid is hereby indemnified for all deductions and payments made in pursuance of this Part.

Annual return by Treasurer, &c

The Treasurer, Secretary or principal Agent or Manager of every such Company and public Body or Association shall prepare, and, on or before the fifteenth day of May next, deliver to the Collector, in such form as may be prescribed by the Governor General in Council, a return in writing showing the names of every person holding at the date of the said return a paid employment under, or receiving a pension or annuity from, such Company or Body or Association, whose pay or pension or annuity as such amounts to eighty-three rupees, five annas and four pies per mensem or upwards, together with the salaries, annuities or pensions payable by the Company or public Body or Association to all such persons respectively.

Subsequent deduction of duty omitted to be levied.

9. Whenever the duty leviable under this Part in any month is not deducted at the time of payment in that month from the pay, annuity or pension chargeable therewith, it shall be deducted from such pay, annuity or pension at some subsequent time of payment.

PART III.

Duties on Profits of Companies.

Shipping Companies.

10. The Treasurer, Secretary or principal Agent or Manager in India of every Company shall, in the case of a Shipping Company trading between British India and any other country, pay to Government in respect of one moiety of the nett profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the

the Company's accounts shall have been last made up, the duty of two pies in the rupee:

and, in the case of every other Company, pay to Government in respect of the whole of the nett profits made in British India by such Company during the year ending on the day on which the Company's accounts shall have been last made up, the duty of two pies for every rupee.

Other Companies.

and shall prepare, and, on or before the fifteenth day of May next, deliver to the Collector a statement in writing signed by him showing the result of such accounts.

Statement of result of accounts.

11. If in the case of any Company no such accounts have been made up within the year ending on the thirty-first day of March 1872, the Treasurer, Secretary or principal Agent or Manager of such Company shall prepare, and, on or before the fifteenth day of May next, deliver to the Collector a return in writing, signed by him and stating the nett profits made by such ships or by the Company (as the case may be) during the year ending on the said thirty-first day of March.

Annual return of nett profits.

12. Whenever the Collector has reason to believe that any statement or return mentioned in section ten or section eleven is incorrect or incomplete, he may cause a notice to be served on the Treasurer, Secretary, Agent or Manager by whom such statement or return was delivered, requiring him, on or before a day to be mentioned in the notice, to attend at the Collector's office and to produce for the inspection of the Collector such of the accounts of the Company as refer to the year mentioned in section ten or section eleven, as the case may be, and as are in the possession or power of such Treasurer, Secretary, Agent or Manager.

Power to require officers of Companies to attend and produce accounts.

The Collector shall thereupon make an order, determining the amount at which the Company shall be assessed under this Part and the day on which such amount shall be paid; and, subject to the provisions hereinafter contained, such sum shall be payable accordingly.

13. Every

Indemnity.

13. Every such Treasurer, Secretary, Agent or Manager is hereby indemnified for all payments made in pursuance of section ten or section twelve.

PART IV.

DUTIES ON INTEREST ON GOVERNMENT SECURITIES.

Duty on interest.

14. A yearly duty of two pies for every rupee shall be levied upon all interest on securities of the Government of India becoming due on or after the first day of April 1872.

Deduction of duty.

15. Every person empowered to pay such interest shall deduct the duty at the place where the interest is paid,

and shall, as soon as may be after making such deduction, pay the same to the credit of the Government of India, or as such Government from time to time directs:

Proviso.

Provided that no such duty shall be deducted from the interest on any such security, where the owner thereof produces a certificate signed by the Collector that his annual income, including such interest, is less than one thousand rupees.

PART V.

DUTIES ON ALL OTHER INCOME.

Duty on income not charged under Parts II, III and IV.

16. A yearly duty of two pies for every rupee shall be levied upon all incomes of one thousand rupees per annum or upwards, not chargeable under Part II, Part III, or Part IV of this Act.

Trustees, guardians and committees of incapacitated persons to be charged.

17. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic or idiot, and having the control of the property of such infant, married woman, lunatic or idiot, whether such infant, married woman, lunatic or idiot resides in British India or not, shall, if the infant, married woman, lunatic or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged

charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Non-residents charged in names of their agents.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income.

18. Every trustee, guardian, curator, committee or agent shall, when required by the Collector, deliver a statement signed by him, of the amount of the income in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot or non-resident, together with a declaration of the truth of the statement.

The Collector shall have power to serve a notice upon any person whom he has reason to believe to be a trustee, guardian, curator, committee or agent, requiring him to deliver, on or before a day to be specified in the notice, a statement signed by him of the names of the persons for or of whom he is trustee, guardian, curator, committee or agent.

Receivers, Managers, Courts of Wards, Administrators General and Official Trustees.

19. Receivers or Managers appointed by any Court in India, the Courts of Wards, the Administrators General of Bengal, Madras and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income officially in their possession or under their control.

Power to retain duties charged on trustees, &c.

20. When any trustee, guardian, curator, committee or agent is assessed under this Act in such capacity;

or when any Receiver or Manager appointed by any Court, any Court of Wards, Administrator General, or Official Trustee is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee or agent, or as such receiver, manager, Court of Wards,

Wards, Administrator General or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Indemnity.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Owners of lands and houses occupying them.

21. Owners of lands or houses occupying the same shall be chargeable in respect of the annual value thereof at nine-tenths of the full rent at which such lands or houses are worth to be let for the year.

Rules for assessing income from land.

The Local Government may, with the sanction of the Governor General in Council, prescribe, for the whole or any part of the territories subject to such Local Government, special rules for the assessment of incomes derived from land, at an amount bearing a fixed proportion to the revenue assessed thereon.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law.

Persons assessed under Part V of Act XII of 1871, on incomes of 1,000 rupees and upwards, to be assessed at same amount.

22. Every person chargeable under this Part shall, if he was assessed under Part V of Act XII of 1871 on an income of rupees one thousand or upwards, be assessed at the same amount as that at which he was assessed under the said Act; but any such person may apply under the provisions of Part VI to have such assessment reduced or cancelled.

Notice requiring returns.

In the case of every person chargeable under this Part, to whom the provisions of the last preceding paragraph do not apply, and whose annual income is, in the Collector's opinion, four thousand rupees or upwards, the Collector shall,

and in the case of every such person whose annual income is, in the Collector's opinion, less than four thousand rupees, the Collector may,

cause a notice to be served on him, requiring him to fill in a return of his income during one year ending on the day of the year immediately preceding the year of assessment on which his accounts have been usually made up, or on the thirty-first day of March 1872, and to state in such return the period during which such income has actually accrued.

Such

Such notice shall be in the form to be prescribed by the Governor General in Council, and shall specify the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

Return how made.

23. Every person on whom such notice is served shall send to or deliver at the Collector's office the return duly filled and signed by him.

A declaration shall be added by such person at the foot of the return, (*a*) that the income stated therein is truly estimated on all the sources therein mentioned, (*b*) that it has actually accrued within the period therein stated, and (*c*) that he has no other source of income.

Lists of lodgers and employees.

24. Every person, when required so to do by a notice in the form to be prescribed by the Governor General in Council, shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons receiving salary or emoluments amounting to eighty-three rupees, five annas and four pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable under this Act to be assessed, and who desires to be so assessed at such place.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

Collector to determine persons chargeable.

25. The Collector shall from time to time determine what persons are chargeable under this Part, and the amount at which every such person shall be assessed;

and in making such assessment income exempted under section six shall be treated as chargeable under this Part.

26. Every

Assessment to be made on past year's income.

26. Every such assessment shall be made upon the full amount of such person's income during the year ending on the day of the year next before the year of assessment on which his accounts have been usually made up, or on the thirty-first day of March 1872.

Assessment when assessee becomes chargeable within year.

In the case of a person for the first time becoming chargeable under this Part within the year of assessment, or within the year next before such year, the assessment shall be made according to an average of his income for such period as the Collector, under the circumstances, directs.

Notice to persons chargeable.

27. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

(1.)—The name and the profession, trade or other source of the income of such person, or in respect of which he is chargeable;

(2.)—The year or portion of the year for which the duty is to be paid;

(3.)—The place or places, district or districts, where such income accrues; and

(4.)—The amount to be paid;

and requiring him within fifteen days from the date of the service either to pay such amount or to apply to the Collector to have the assessment reduced or cancelled.

Officer to give receipts.

28. Such amount shall be paid to the Collector, who shall give a receipt for such payment to the person making the same:

Provided that, if such income accrues at or in more than one place or district, the receipt shall be granted and payment made by and to the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

29. Every

29. Every such receipt shall specify— Contents of receipt.

(1.)—The name and source or sources of the income of the person by or on whose behalf the duty is paid;

(2.)—The year or portion of the year for which the duty is paid;

(3.)—The amount paid, and the date of payment; and—

(4.)—The place or places, district or districts, where the income accrues;

and shall be admissible as evidence of all matters contained therein.

PART VI.

Petitions and Appeals against Assessments.

30. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under Part V, may apply by petition to the Collector in order to establish his right to have the assessment reduced or cancelled: Petition against assessment under Part V.

Such petition shall ordinarily be presented within fifteen days from the date of the service of the notice mentioned in section twenty-seven. But if the Collector is satisfied that the objector has not received such notice, the petition may be presented within fifteen days from the day on which, in the Collector's opinion, he became aware of the assessment:

Provided that no person served with a notice under section twenty-two shall be entitled to apply by petition under this section, unless he has made the return required in such notice on or before the day therein mentioned, or unless he satisfies the Collector that he had a sufficient excuse for not making such return. Proviso.

The petition shall be in the form contained in the schedule hereto annexed, or as near thereto as circumstances admit; and the statements therein contained shall be verified by the petitioner or some other competent person in the manner required by law for the verification of plaints. Form and verification of petition.

31. The

Hearing of petition.

31. The Collector shall fix a day and place for the hearing of the petition, and, on the day and at the place so fixed, or on the day and at the place (if any) to which he has adjourned such hearing, shall hear such petition and pass his order thereon.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition, or reject the petition and enhance the petitioner's assessment, the petitioner shall within fifteen days from the passing of the order pay the amount mentioned in the said notice or in the order of enhancement, as the case may be.

Appeal to Commissioner from order under section 12 or section 31.

32. Any person dissatisfied with any order under section twelve or section thirty-one may, within fifteen days from the date thereof, on payment of the sum payable under such order, present a petition of appeal to the Commissioner of Revenue of the Division, whose order upon such appeal shall be final.

The time requisite for obtaining a copy of the order shall be excluded in computing the said period of fifteen days.

The order of such Commissioner shall be final. It may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the assessment to an amount to be specified in the decision.

If the order rejects the petition and enhances the assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the order of enhancement.

Documents to accompany appeal.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, and a copy of the Collector's order thereon, and a list of the documents, if any, on which the appellant relies.

Copies of petition and order exempt from fees

Neither of such copies shall be chargeable under the Court Fees Act.

When

When the decision on such appeal is in favour of the petitioner, the value of the fee on his petition of appeal, and (where he has presented a petition to the Collector) the fee on such petition, together with the excess paid by him, or (when the decision is that the petitioner, or the Company which he represents, is not chargeable under this Act) the whole sum so paid, shall at once be refunded. Return of fees and excess.

33. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner, or the Company which he represents, should be assessed; and may examine on oath the person so summoned and the petitioner; and may require each of them to produce any documents in his possession or power relating to the sources of the income in question. Power to summon persons to give necessary information.

34. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income not specified in the receipt granted to him under section twenty-eight has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person, stating the amount to be paid in respect of such source. Power to issue fresh notice.

The provisions contained in sections twenty-seven to thirty-three (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART VII.

Payment and Recovery of Duties.

35. All duties under this Act, except when they are deducted under section seven, section eight or section fifteen, shall be payable on the first day of May 1872: Tax when payable.

Provided that the amount so payable may be paid by two equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in section twenty- Payment by instalments.

seven

seven upon the person paying the same, and the second instalment on the first day of October next.

Recovery under revenue law.

36. In any case of default under this Act, the Collector may, if a notice has been served on the defaulter requiring him to pay, within fifteen days from the date of the service, the amount of the duty or instalment due by him under this Act, either recover a sum not exceeding double the amount as if it were an arrear of land-revenue,

or pass an order that a sum not exceeding double the amount of such duty or instalment shall be recovered from such defaulter.

Every such order shall have the force of a decree of a Civil Court in a suit in which the Government is the plaintiff and the defaulter is the defendant; and such order may be enforced in manner provided by the Code of Civil Procedure for the enforcement of decrees for money; and the procedure under the said Code in respect of the following matters:—

(*a*) sales in execution of decrees:

(*b*) arrests in execution of decrees for money:

(*c*) execution of decrees by imprisonment:

(*d*) claims to attached property; and

(*e*) execution of decrees out of the jurisdiction of the Courts by which they were passed,

shall apply to every execution issued for levying the moneys mentioned in such order; save that all the powers and duties conferred and imposed by the said Code upon the Court shall be executed by the Collector by whom such order has been made or to whom a copy thereof has been transmitted for execution according to the provisions of the said Code, section two hundred and eighty-six:

Provided that, where any person has presented a petition under section thirty, such sum shall not be recoverable from him unless, within fifteen days from the passing of the order thereon, he fails to pay the amount, if any, required by such order.

On the recovery of such sum from the defaulter, the Collector shall grant him a receipt without any further payment.

Every

Every such receipt shall bear date from the recovery of the amount, and save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Amendment of assessment.

37. If, during or within two months from the end of the year for which any assessment under Part V has been made, the Company or person assessed proves to the satisfaction of the Collector, that the nett profits or income of such Company or person during such year fell short of the sum so assessed, the Collector may cause the assessment made for such year to be amended as the case requires, and if the sum assessed has been paid, may refund the sum overpaid.

In case any Company or person assessed under Part III or Part V ceases to carry on the trade or business in respect whereof such assessment was made, or if any such person dies or becomes insolvent before the end of the year for which the assessment was made, or if any such Company or person is, from any other specific cause, deprived of or loses the income on which the assessment was made,

such Company or person or its or his representative in interest may apply to the Collector within three months after the end of such year, and on proof thereof to his satisfaction, the Collector shall amend the assessment as the case may require, and give such relief to the Company or person charged as is just, and in cases requiring it, the Collector shall refund such sum as has been overpaid on the assessment amended or vacated.

PART VIII.

PENALTIES.

Treasurers, &c., failing to make payments or deliver returns.

38. Every Treasurer, Secretary, Agent, Manager or other person failing to make any payment or deduction, or to prepare and deliver in due time any statement or return, or to produce any accounts, required by section eight, ten, eleven or twelve,

and

Trustees, &c., failing to deliver statements or declarations.

and every trustee, guardian, curator, committee or agent, failing to deliver any statement or declaration required by section eighteen,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, ten rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

False statement in declaration, list or petition.

39. Whoever makes a statement in any declaration or list made or delivered under section twenty-three or twenty-four, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have committed the offence described in section one hundred and seventy-seven of the Indian Penal Code.

Whoever makes a statement in any petition presented under section thirty which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector.

40. No person shall be proceeded against for any offence under section thirty-eight or section thirty-nine except at the instance of the Collector.

Sections 193 and 228 of Penal Code to apply to proceedings.

41. In sections one hundred and ninety-three and two hundred and twenty-eight of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART IX.

MISCELLANEOUS.

Bar of suits in Civil Court.

42. No suit shall lie in any Civil Court to set aside or modify any assessment made under this Act.

Exercise of powers of Collector and Commissioner.

43. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the Local

Local Government from time to time appoints in this behalf.

44. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector. Service of notices.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm or a Hindú undivided family, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

45. When any Company or firm has several places of business in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager. Power to declare principal place of business.

When any Company or firm has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different Local Governments, the Governor General in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence; and when any person has several places of residence in the territories subject to a single Local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence. Power to declare residence.

The

The powers given by this section may be delegated to and exercised by such officers as the Governor General in Council or the Local Government, as the case may be, from time to time appoints in this behalf.

Power to prescribe forms and make rules.

46. The Governor General in Council may from time to time

(*a*) prescribe forms for the returns, notices and lists hereinbefore mentioned,

(*b*) make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and

(*c*) delegate to any Local Government the powers given by this section, clause (*b*), so far as regards the territories subject to such Government.

SCHEDULE.

Form of Petition under section 30.

Stamp eight annas.

TO THE COLLECTOR OF

The *day of* 187 .

The petition of *A. B.* of

SHEWETH—

1.—That, under the Indian Income Tax Act, your petitioner has been assessed in the sum of *twenty-seven* rupees for the year commencing the first day of April 1872.

2.—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the thirty-first day of March last were rupees , as will appear from the documents of which a list is presented herewith.

3.—That such income and profits actually accrued and arose during a period of months and days [*here state the exact number of months and days in which the income and profits accrued and arose*].

4.—That during the said year your petitioner had no other income or profits.

Your petitioner therefore prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or* that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded].

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

Office Supdt. Govt. Printing.—No. 71 L. D—1-5 72—3,300.

THE INDIAN CONTRACT ACT, 1872.

CONTENTS.

Preamble.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent.
   Commencement.
   Enactments repealed.
2. Interpretation-clause.

CHAPTER I.

OF THE COMMUNICATION, ACCEPTANCE AND REVOCATION OF PROPOSALS.

3. Communication, acceptance and revocation of proposals.
4. Communication when complete.
5. Revocation of proposals and acceptances.
6. Revocation how made.
7. Acceptance must be absolute.
8. Acceptance by performing conditions, or receiving consideration.
9. Promises, express and implied.

CHAPTER II.

OF CONTRACTS, VOIDABLE CONTRACTS, AND VOID AGREEMENTS.

10. What agreements are contracts.
11. Who are competent to contract.
12. What is a sound mind for the purposes of contracting.
13. 'Consent' defined.
14. 'Free consent' defined.
15. 'Coercion' defined.
16. 'Undue influence' defined.
17. 'Fraud' defined.
18. 'Misrepresentation' defined.
19. Voidability of agreements without free consent.
20. Agreement void where both parties are under mistake as to matter of fact.

21. Effect

[*Price one rupee nine annas and six pies*].

SECTIONS.

21. Effect of mistakes as to law.
22. Contract not voidable merely because of mistake of one party as to matter of fact.
23. 'What considerations and objects are lawful, and what not.

VOID AGREEMENTS.

24. Agreements void, if considerations and objects unlawful in part.
25. Agreement without consideration, void, unless—
it is in writing and registered,
or is a promise to compensate for something done,
or is a promise to pay a debt barred by limitation law.
26. Agreement in restraint of marriage, void:
27. Agreement in restraint of trade, void.
Saving of agreement not to carry on business of which good-will is sold;
of agreement between partners prior to dissolution;
or during continuance of partnership.
28. Agreements in restraint of legal proceedings, void.
Saving of contract to refer to arbitration dispute that may arise.
Suits barred by such contracts.
Saving of contract to refer questions that have already arisen.
29. Agreements void for uncertainty.
30. Agreements by way of wager, void.
Exception in favour of certain prizes for horse-racing.
Section 294A of the Indian Penal Code not affected.

CHAPTER III.

OF CONTINGENT CONTRACTS.

31. 'Contingent contract' defined.
32. Enforcement of contracts contingent on an event happening.
33. Enforcement of contracts contingent on an event not happening.
34. When event on which contract is contingent to be deemed impossible, if it is the future conduct of a living person.
35. When contracts become void, which are contingent on happening of specified event within fixed time.
When contracts may be enforced, which are contingent on specified event not happening within fixed time.
36. Agreements contingent on impossible events, void.

CHAPTER IV.

BENGAL SECRETARIAT LIBRARY.

SECTIONS.

CHAPTER IV.

OF THE PERFORMANCE OF CONTRACTS.

CONTRACTS WHICH MUST BE PERFORMED.

37. Obligation of parties to contracts.
38. Effect of refusal to accept offer of performance.
39. Effect of refusal of party to perform promise wholly.

BY WHOM CONTRACTS MUST BE PERFORMED.

40. Person by whom promise is to be performed.
41. Effect of accepting performance from third person.
42. Devolution of joint liabilities.
43. Any one of joint promisors may be compelled to perform.
Each promisor may compel contribution.
Sharing of loss by default in contribution.
44. Effect of release of one joint contractor.
45. Devolution of joint rights.

TIME AND PLACE FOR PERFORMANCE.

46. Time for performance of promise, where no time is specified and no application to be made.
47. Time and place for performance of promise, where time is specified and no application to be made.
48. Application for performance to be at proper time and place.
49. Place for performance of promise, where no application to be made and no place fixed.
50. Performance in manner or at time prescribed or sanctioned by promisee.

PERFORMANCE OF RECIPROCAL PROMISES.

51. Promisor not bound to perform, unless reciprocal promisee ready and willing to perform.
52. Order of performance of reciprocal promises.
53. Liability of party preventing event on which contract is to take effect.
54. Effect of default as to that promise which should be first performed, in contract consisting of reciprocal promises.
55. Effect of failure to perform at fixed time, in contract in which time is essential.
Effect of such failure when time is not essential.
Effect of acceptance of performance at time other than that agreed upon.
56. Agreement to do impossible act, void.
Contract to do impossible act, or one which afterwards becomes impossible or illegal, when void.
Compensation for loss on non-performance of act known to be impossible or unlawful.

57. Where

SECTIONS.

57. Where there are promises to do things legal, and also other things illegal, the former are a contract, the latter a void agreement.
58. In alternative promise, one branch being illegal, legal branch alone enforceable.

APPROPRIATION OF PAYMENTS.

59. Application of payment where debt to be discharged is indicated.
60. Application of payment where debt to be discharged is not indicated.
61. Application of payment where neither party makes appropriation.

CONTRACTS WHICH NEED NOT BE PERFORMED.

62. Contracts changed, rescinded or altered need not be performed.
63. Promisee may dispense with or remit performance of promise.
64. Consequences of rescission of voidable contract.
65. Obligation of person who has received advantage under void agreement, or contract that becomes void.
66. Mode of communicating or revoking rescission of voidable contract.
67. Effect of neglect of promisee to afford promisor reasonable facilities for performance.

CHAPTER V.

OF CERTAIN RELATIONS RESEMBLING THOSE CREATED BY CONTRACT.

68. Claim for necessaries supplied to person incapable of contracting, or on his account.
69. Reimbursement of person paying money due by another, in payment of which he is interested.
70. Obligation of person enjoying benefit of non-gratuitous act.
71. Responsibility of finder of goods.
72. Liability of person to whom money is paid, or thing delivered, by mistake or under coercion.

CHAPTER VI.

OF THE CONSEQUENCES OF BREACH OF CONTRACT.

73. Compensation for loss or damage caused by breach of contract.
Compensation for failure to discharge obligation resembling those created by contract.

SECTIONS.

74. Title to compensation for breach of contract in which a sum is named as payable in case of breach.
75. Party rightfully rescinding contract, entitled to compensation.

CHAPTER VII.

SALE OF GOODS.

WHEN PROPERTY IN GOODS SOLD PASSES.

76. 'Goods' defined.
77. 'Sale' defined.
78. Sale how effected.
79. Transfer of ownership of thing sold, which has yet to be ascertained, made or finished.
80. Completion of sale of goods which the seller is to put into state in which buyer is to take them.
81. Completion of sale of goods, when seller has to do anything thereto in order to ascertain price.
82. Completion of sale, when goods are unascertained at date of contract.
83. Ascertainment of goods by subsequent appropriation.
84. Ascertainment of goods by seller's selection.
85. Transfer of ownership of moveable property, when sold together with immoveable.
86. Buyer to bear loss after goods have become his property.
87. Transfer of ownership of goods agreed to be sold while non-existent.
88. Contract to sell and deliver, at a future day, goods not in seller's possession at date of contract.
89. Determination of price not fixed by contract.

DELIVERY.

90. Delivery how made.
91. Effect of delivery to wharfinger or carrier.
92. Effect of part-delivery.
93. Seller not bound to deliver until buyer applies for delivery.
94. Place of delivery.

SELLER'S LIEN.

95. Seller's lien.
96. Lien where payment to be made at a future day, but no time fixed for delivery.
'Insolvency' defined.
97. Seller's lien where payment to be made at future day, and buyer allows goods to remain in seller's possession.
98. Seller's lien against subsequent buyer.

STOPPAGE

SECTIONS.

STOPPAGE IN TRANSIT.

99. Power of seller to stop in transit.
100. When goods are to be deemed in transit.
101. Continuance of right of stoppage.
102. Cessation of right on assignment, by buyer, of document showing title.
103. How seller may stop where instrument of title assigned to secure specific advance.
104. Stoppage how effected.
105. Notice of seller's claim.
106. Right of seller on stoppage.

RESALE.

107. Resale on buyer's failure to perform.

TITLE.

108. Title conveyed by seller of goods to buyer.

WARRANTY.

109. Seller's responsibility for badness of title.
110. Establishment of implied warranty of goodness or quality.
111. Warranty of soundness implied on sale of provisions.
112. Warranty of bulk implied on sale of goods by sample.
113. Warranty implied where goods are sold as being of a certain denomination.
114. Warranty where goods ordered for a specified purpose.
115. Warranty on sale of article of well-known ascertained kind.
116. Seller when not responsible for latent defects.
117. Buyer's right on breach of warranty.
118. Right of buyer on breach of warranty in respect of goods not ascertained.

MISCELLANEOUS.

119. When buyer may refuse to accept, if goods not ordered are sent with goods ordered.
120. Effect of wrongful refusal to accept.
121. Right of seller as to rescission, on failure of buyer to pay price at time fixed.
122. Sale and transfer of lots sold by auction.
123. Effect of use, by seller, of pretended biddings to raise price.

CHAPTER VIII.

OF INDEMNITY AND GUARANTEE.

124. 'Contract of indemnity' defined.
125. Rights and liabilities of indemnity-holder, when sued.

126. Contract

SECTIONS.

126. 'Contract of guarantee,' 'surety,' 'principal debtor,' and 'creditor.'
127. Consideration for guarantee.
128. Surety's liability.
129. 'Continuing guarantee'.
130. Revocation of continuing guarantee.
131. Revocation of continuing guarantee by surety's death.
132. Liability of two persons, primarily liable, not affected by private arrangement between them as to suretyship.
133. Discharge of surety by variance in terms of contract.
134. Discharge of surety by release or discharge of principal debtor.
135. Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor.
136. Surety not discharged when agreement made with third person to give time to principal debtor.
137. Creditor's forbearance to sue does not discharge surety.
138. Release of one co-surety does not discharge others.
139. Discharge of surety by creditor's act or omission impairing surety's eventual remedy.
140. Rights of surety on payment or performance.
141. Surety's right to benefit of creditor's securities.
142. Guarantee obtained by misrepresentation, invalid.
143. Guarantee obtained by concealment, invalid.
144. Guarantee on agreement that creditor shall not act on it until co-surety joins.
145. Implied promise to indemnify surety.
146. Co-sureties liable to contribute equally.
147. Liability of co-sureties bound in different sums.

CHAPTER IX.

OF BAILMENT.

148. 'Bailment,' 'bailor,' and 'bailee' defined.
149. Delivery to bailee how made.
150. Bailor's duty to disclose faults in goods bailed.
151. Care to be taken by bailee.
152. Bailee when not liable for loss, &c., of thing bailed.
153. Termination of bailment by bailee's act inconsistent with conditions.
154. Liability of bailee making unauthorized use of goods bailed.
155. Effect of mixture, with bailor's consent, of his goods with goods of bailee.
156. Effect of mixture, without bailor's consent, when the goods can be separated.
157. Effect of mixture, without bailor's consent, when the goods cannot be separated.

158. Re-payment

SECTIONS.

158. Re-payment, by bailor, of necessary expenses.
159. Restoration of goods bailed gratuitously.
160. Return of goods bailed, on expiration of time or accomplishment of purpose.
161. Bailee's responsibility when goods are not duly delivered or tendered.
162. Termination of gratuitous bailment by death.
163. Bailor entitled to increase or profit from goods bailed.
164. Bailor's responsibility to bailee.
165. Bailment by several joint owners.
166. Bailee not responsible on re-delivery to bailor without title.
167. Right of third person claiming goods bailed.
168. Right of finder of goods.
May sue for specific reward offered.
169. When finder of thing commonly on sale may sell it.
170. Bailee's particular lien.
171. General lien of bankers, factors, wharfingers, attorneys and policy-brokers.

BAILMENTS OF PLEDGES.

172. 'Pledge,' 'pawnor,' and 'pawnee' defined.
173. Pawnee's right of retainer.
174. Pawnee not to retain for debt or promise other than that for which goods pledged.
Presumption in case of subsequent advances.
175. Pawnee's right as to extraordinary expenses incurred.
176. Pawnee's right where pawnor makes default.
177. Defaulting pawnor's right to redeem.
178. Pledge by possessor of goods, or of documentary title to goods.
179. Pledge where pledgor has only a limited interest.

SUITS BY BAILEES OR BAILORS AGAINST WRONG-DOERS.

180. Suit by bailor or bailee against wrong-doer.
181. Apportionment of relief or compensation obtained by such suits.

CHAPTER X.

AGENCY.

APPOINTMENT AND AUTHORITY OF AGENTS.

182. 'Agent' and 'principal' defined.
183. Who may employ agent.
184. Who may be an agent.
185. Consideration not necessary.
186. Agent's authority may be expressed or implied.
187. Definitions of express and implied authority.
188. Extent of agent's authority.
189. Agent's authority in an emergency.

SUB-AGENTS.

SECTIONS.

SUB-AGENTS.

190. When agent cannot delegate.
191. 'Sub-agent' defined.
192. Representation of principal by sub-agent properly appointed.
Agent's responsibility for sub-agent.
Sub-agent's responsibility.
193. Agent's responsibility for sub-agent appointed without authority.
194. Relation between principal and person duly appointed by agent to act in business of agency.
195. Agent's duty in naming such person.

RATIFICATION.

196. Right of person as to acts done for him without his authority.
Effect of ratification.
197. Ratification may be expressed or implied.
198. Knowledge requisite to valid ratification.
199. Effect of ratifying unauthorized act forming part of a transaction.
200. Ratification of unauthorized act cannot injure third person.

REVOCATION OF AUTHORITY.

201. Termination of agency.
202. Termination of agency, where agent has an interest in subject-matter.
203. When principal may revoke agent's authority.
204. Revocation where authority has been partly exercised.
205. Compensation for revocation by principal, or renunciation by agent.
206. Notice of revocation or renunciation.
207. Revocation and renunciation may be expressed or implied.
208. When termination of agent's authority takes effect as to agent, and as to third persons.
209. Agent's duty on termination of agency by principal's death or insanity.
210. Termination of sub-agent's authority.

AGENT'S DUTY TO PRINCIPAL.

211. Agent's duty in conducting principal's business.
212. Skill and diligence required from agent.
213. Agent's accounts.
214. Agent's duty to communicate with principal.
215. Right of principal when agent deals, on his own account, in business of agency without principal's consent.
216. Principal's right to benefit gained by agent dealing on his own account in business of agency.

Sections.

217. Agent's right of retainer out of sums received on principal's account.
218. Agent's duty to pay sums received for principal.
219. When agent's remuneration becomes due.
220. Agent not entitled to remuneration for business misconducted.
221. Agent's lien on principal's goods and papers.

Principal's Duty to Agent.

222. Agent to be indemnified against consequences of lawful acts.
223. Agent to be indemnified against consequences of acts done in good faith.
224. Non-liability of employer of agent to do a criminal act.
225. Compensation to agent for injury caused by principal's neglect.

Effect of Agency on Contracts with third Persons.

226. Enforcement and consequences of agent's contracts.
227. Principal how far bound, when agent exceeds authority.
228. Principal not bound when excess of agent's authority is not separable.
229. Consequences of notice given to agent.
230. Agent cannot personally enforce, nor be bound by, contracts on behalf of principal.
Presumption of contract to contrary.
231. Rights of parties to a contract made by agent not disclosed.
232. Performance of contract with agent supposed to be principal.
233. Right of person dealing with agent personally liable.
234. Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable.
235. Liability of pretended agent.
236. Person falsely contracting as agent, not entitled to performance.
237. Liability of principal inducing belief that agent's unauthorized acts were authorized.
238. Effect, on agreement, of misrepresentation or fraud by agent.

CHAPTER XI.

Of Partnership.

239. 'Partnership' defined.
'Firm' defined.
240. Lender not a partner by advancing money for share of profits.

SECTIONS.

241. Property left in business by retiring partner, or deceased partner's representative.
242. Servant or agent remunerated by share of profits, not a partner.
243. Widow or child of deceased partner receiving annuity out of profits, not a partner.
244. Person receiving portion of profits for sale of good-will, not a partner.
245. Responsibility of person leading another to believe him a partner.
246. Liability of person permitting himself to be represented as a partner.
247. Minor partner not personally liable, but his share is.
248. Liability of minor partner on attaining majority.
249. Partner's liability for debts of partnership.
250. Partner's liability to third person for neglect or fraud of co-partner.
251. Partner's power to bind co-partners.
252. Annulment of contract defining partners' rights and obligations.
253. Rules determining partners' mutual relations, where no contract to contrary.
254. When Court may dissolve partnership.
255. Dissolution of partnership by prohibition of business.
256. Rights and obligations of partners in partnership continued after expiry of term for which it was entered into.
257. General duties of partners.
258. Account, to firm, of benefit derived from transaction affecting partnership.
259. Obligations, to firm, of partner carrying on competing business.
260. Revocation of continuing guarantee by change in firm.
261. Non-liability of deceased partner's estate for subsequent obligations.
262. Payment of partnership-debts, and of separate debts.
263. Continuance of partners' rights and obligations after dissolution.
264. Notice of dissolution.
265. Right of partners to apply for winding-up by Court after termination of partnership.
266. Limited liability partnerships, incorporated partnerships, and joint stock companies.
SCHEDULE. Enactments repealed.

ACT No. IX OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th April 1872).

The Indian Contract Act, 1872.

WHEREAS it is expedient to define and amend certain parts of the law relating to contracts; It is hereby enacted as follows:— Preamble.

PRELIMINARY.

1. This Act may be called "The Indian Contract Act, 1872." Short title.

It extends to the whole of British India; and it shall come into force on the first day of September 1872. Extent. Commencement.

The enactments mentioned in the schedule hereto are repealed to the extent specified in the third column thereof; but nothing herein contained shall affect the provisions of any Statute, Act, or Regulation not hereby expressly repealed, nor any usage or custom of trade, nor any incident of any contract, not inconsistent with the provisions of this Act. Enactments repealed.

2. In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context:— Interpretation-clause.

(*a.*)—When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal: "Proposal."

(*b.*)—When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise: "Promise."

(*c.*)—The

"Promisor" and "promisee."

(*c*.)—The person making the proposal is called the 'promisor', and the person accepting the proposal is called the 'promisee':

"Consideration."

(*d*.)—When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise:

"Agreement."

(*e*.)—Every promise and every set of promises, forming the consideration for each other, is an agreement:

"Reciprocal promises."

(*f*.)—Promises which form the consideration or part of the consideration for each other, are called reciprocal promises:

"Void agreement."

(*g*.)—An agreement not enforceable by law is said to be void:

"Contract."

(*h*.)—An agreement enforceable by law is a contract:

"Voidable contract."

(*i*.)—An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract:

"Void contract."

(*j*.)—A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

CHAPTER I.

Of the Communication, Acceptance and Revocation of Proposals.

Communication, acceptance and revocation of proposals.

3. The communication of proposals, the acceptance of proposals, and the revocation of proposals and acceptances, respectively, are deemed to be made by any act or omission of the party proposing, accepting or revoking, by which he intends to communicate such proposal, acceptance or revocation, or which has the effect of communicating it.

Communication when complete.

4. The communication of a proposal is complete when it comes to the knowledge of the person to whom it is made.

The

The communication of an acceptance is complete,

as against the proposer, when it is put in a course of transmission to him, so as to be out of the power of the acceptor;

as against the acceptor, when it comes to the knowledge of the proposer.

The communication of a revocation is complete,

as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it;

as against the person to whom it is made, when it comes to his knowledge.

Illustrations.

(*a.*) A proposes, by letter, to sell a house to B at a certain price.

The communication of the proposal is complete when B receives the letter.

(*b.*) B accepts A's proposal by a letter sent by post.

The communication of the acceptance is complete,

as against A when the letter is posted;

as against B, when the letter is received by A.

(*c.*) A revokes his proposal by telegram.

The revocation is complete as against A when the telegram is despatched. It is complete as against B when B receives it.

B revokes his acceptance by telegram. B's revocation is complete as against B when the telegram is despatched, and as against A when it reaches him.

Revocation of proposals and acceptances.

5. A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.

An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards.

Illustration.

A proposes, by a letter sent by post, to sell his house to B.

B accepts the proposal by a letter sent by post.

A may revoke his proposal at any time before or at the moment when B posts his letter of acceptance, but not afterwards.

B may

B may revoke his acceptance at any time before or at the moment when the letter communicating it reaches A, but not afterwards.

Revocation how made.

6. A proposal is revoked—

(1) by the communication of notice of revocation by the proposer to the other party;

(2) by the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance;

(3) by the failure of the acceptor to fulfil a condition precedent to acceptance; or

(4) by the death or insanity of the proposer, if the fact of his death or insanity comes to the knowledge of the acceptor before acceptance.

Acceptance must be absolute.

7. In order to convert a proposal into a promise the acceptance must—

(1) be absolute and unqualified;

(2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted. If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but, if he fails to do so, he accepts the acceptance.

Acceptance by performing conditions, or receiving consideration.

8. Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal.

Promises, express and implied.

9. In so far as the proposal or acceptance of any promise is made in words, the promise is said to be express. In so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied.

CHAPTER II.

CHAPTER II.

Of Contracts, Voidable Contracts, and Void Agreements.

10. All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void. What agreements are contracts.

Nothing herein contained shall affect any law in force in British India, and not hereby expressly repealed, by which any contract is required to be made in writing or in the presence of witnesses, or any law relating to the registration of documents.

11. Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject. Who are competent to contract.

12. A person is said to be of sound mind for the purpose of making a contract if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests. What is a sound mind for the purposes of contracting.

A person who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind.

A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind.

Illustrations.

(*a.*) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals.

(*b.*) A sane man, who is delirious from fever, or who is so drunk that he cannot understand the terms of a contract, or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts.

13. Two or more persons are said to consent when they agree upon the same thing in the same sense. "Consent" defined.

14. Consent is said to be free when it is not caused by— "Free consent" defined.

(1) coercion, as defined in section fifteen, or

(2) undue

(2) undue influence, as defined in section sixteen, or

(3) fraud, as defined in section seventeen, or

(4) misrepresentation, as defined in section eighteen, or

(5) mistake, subject to the provisions of sections twenty, twenty-one and twenty-two.

Consent is said to be so caused when it would not have been given but for the existence of such coercion, undue influence, fraud, misrepresentation or mistake.

"Coercion" defined.

15. "Coercion" is the committing, or threatening to commit, any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

Explanation.—It is immaterial whether the Indian Penal Code is or is not in force in the place where the coercion is employed.

Illustration.

A, on board an English ship on the high seas, causes B to enter into an agreement by an act amounting to criminal intimidation under the Indian Penal Code.

A afterwards sues B for breach of contract at Calcutta.

A has employed coercion, although his act is not an offence by the law of England, and although section 506 of the Indian Penal Code was not in force at the time when or place where the act was done.

"Undue influence" defined.

16. "Undue influence" is said to be employed in the following cases:—

(1.)—When a person in whom confidence is reposed by another, or who holds a real or apparent authority over that other, makes use of such confidence or authority for the purpose of obtaining an advantage over that other, which, but for such confidence or authority, he could not have obtained:

(2.)—When a person whose mind is enfeebled by old age, illness, or mental or bodily distress, is so treated as to make him consent to that, to which, but for such treatment, he would not have consented, although such treatment may not amount to coercion.

17. Fraud

17. "Fraud" means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with intent to deceive another party thereto or his agent, or to induce him to enter into the contract:— "Fraud" defined.

(1.)—The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

(2.)—The active concealment of a fact by one having knowledge or belief of the fact;

(3.)—A promise made without any intention of performing it;

(4.)—Any other act fitted to deceive;

(5.)—Any such act or omission as the law specially declares to be fraudulent.

Explanation.—Mere silence as to facts likely to affect the willingness of a person to enter into a contract is not fraud, unless the circumstances of the case are such that, regard being had to them, it is the duty of the person keeping silence to speak, or unless his silence is, in itself, equivalent to speech.

Illustrations.

(*a.*) A sells, by auction, to B, a horse which A knows to be unsound. A says nothing to B about the horse's unsoundness. This is not fraud in A.

(*b.*) B is A's daughter and has just come of age. Here, the relation between the parties would make it A's duty to tell B if the horse is unsound.

(*c.*) B says to A—"If you do not deny it, I shall assume that the horse is sound;" A says nothing. Here, A's silence is equivalent to speech.

(*d.*) A and B, being traders, enter upon a contract. A has private information of a change in prices which would affect B's willingness to proceed with the contract. A is not bound to inform B.

18. "Misrepresentation" means and includes— "Misrepresentation" defined.

(1) the positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

(2) any

(2) any breach of duty which, without an intent to deceive, gains an advantage to the person committing it, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him;

(3) causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing which is the subject of the agreement.

Voidability of agreements without free consent.

19. When consent to an agreement is caused by coercion, undue influence, fraud or misrepresentation, the agreement is a contract voidable at the option of the party whose consent was so caused.

A party to a contract, whose consent was caused by fraud or misrepresentation, may, if he thinks fit, insist that the contract shall be performed, and that he shall be put in the position in which he would have been if the representations made had been true.

Exception.—If such consent was caused by misrepresentation or by silence, fraudulent within the meaning of section seventeen, the contract, nevertheless, is not voidable, if the party whose consent was so caused had the means of discovering the truth with ordinary diligence.

Explanation.—A fraud or misrepresentation which did not cause the consent to a contract of the party on whom such fraud was practised, or to whom such misrepresentation was made, does not render a contract voidable.

Illustrations.

(*a.*) A, intending to deceive B, falsely represents that five hundred maunds of indigo are made annually at A's factory, and thereby induces B to buy the factory. The contract is voidable at the option of B.

(*b.*) A, by a misrepresentation, leads B erroneously to believe that five hundred maunds of indigo are made annually at A's factory. B examines the accounts of the factory, which show that only four hundred maunds of indigo have been made. After this B buys the factory. The contract is not voidable on account of A's misrepresentation.

(*c.*) A

(*c.*) A fraudulently informs B that A's estate is free from incumbrance. B thereupon buys the estate. The estate is subject to a mortgage. B may either avoid the contract, or may insist on its being carried out and the mortgage-debt redeemed.

(*d.*) B, having discovered a vein of ore on the estate of A, adopts means to conceal, and does conceal, the existence of the ore from A. Through A's ignorance B is enabled to buy the estate at an under-value. The contract is voidable at the option of A.

(*e.*) A is entitled to succeed to an estate at the death of B; B dies: C, having received intelligence of B's death, prevents the intelligence reaching A, and thus induces A to sell him his interest in the estate. The sale is voidable at the option of A.

Agreement void where both parties are under mistake as to matter of fact.

20. Where both the parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void.

Explanation.—An erroneous opinion as to the value of the thing which forms the subject-matter of the agreement, is not to be deemed a mistake as to a matter of fact.

Illustrations.

(*a.*) A agrees to sell to B a specific cargo of goods supposed to be on its way from England to Bombay. It turns out that, before the day of the bargain, the ship conveying the cargo had been cast away and the goods lost. Neither party was aware of these facts. The agreement is void.

(*b.*) A agrees to buy from B a certain horse. It turns out that the horse was dead at the time of the bargain, though neither party was aware of the fact. The agreement is void.

(*c.*) A, being entitled to an estate for the life of B, agrees to sell it to C. B was dead at the time of the agreement, but both parties were ignorant of the fact. The agreement is void.

Effect of mistakes as to law.

21. A contract is not voidable because it was caused by a mistake as to any law in force in British India; but a mistake as to a law not in force in British India has the same effect as a mistake of fact.

Illustrations.

A and B make a contract grounded on the erroneous belief that a particular debt is barred by the Indian Law of Limitation: the contract is not voidable.

A and B make a contract grounded on an erroneous belief as to the law regulating bills of exchange in France: the contract is voidable.

22. A

Contract not voidable merely because of mistake of one party as to matter of fact.

22. A contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

What considerations and objects are lawful, and what not.

23. The consideration or object of an agreement is lawful,

it is forbidden by law; or

is of such a nature that, if permitted, it would defeat the provisions of any law; or

is fraudulent; or

involves or implies injury to the person or property of another; or

the Court regards it as immoral, or opposed to public policy.

In each of these cases, the consideration or object of an agreement is said to be unlawful. Every agreement of which the object or consideration is unlawful, is void.

Illustrations.

(*a.*) A agrees to sell his house to B for 10,000 rupees. Here, B's promise to pay the sum of 10,000 rupees is the consideration for A's promise to sell the house, and A's promise to sell the house is the consideration for B's promise to pay the 10,000 rupees. These are lawful considerations.

(*b.*) A promises to pay B 1,000 rupees at the end of six months, if C, who owes that sum to B, fails to pay it. B promises to grant time to C accordingly. Here, the promise of each party is the consideration for the promise of the other party, and they are lawful considerations.

(*c.*) A promises, for a certain sum paid to him by B, to make good to B the value of his ship if it is wrecked on a certain voyage. Here, A's promise is the consideration for B's payment, and B's payment is the consideration for A's promise, and these are lawful considerations.

(*d.*) A promises to maintain B's child, and B promises to pay A 1,000 rupees yearly for the purpose. Here, the promise of each party is the consideration for the promise of the other party. They are lawful considerations.

(*e.*) A, B and C enter into an agreement for the division among them of gains acquired, or to be acquired, by them by fraud. The agreement is void, as its object is unlawful.

(*f.*) A

(*f*.) A promises to obtain for B an employment in the public service, and B promises to pay 1,000 rupees to A. The agreement is void, as the consideration for it is unlawful.

(*g*.) A, being agent for a landed proprietor, agrees for money, without the knowledge of his principal, to obtain for B a lease of land belonging to his principal. The agreement between A and B is void, as it implies a fraud by concealment, by A, on his principal.

(*h*.) A promises B to drop a prosecution which he has instituted against B for robbery, and B promises to restore the value of the things taken. The agreement is void, as its object is unlawful.

(*i*.) A's estate is sold for arrears of revenue under the provisions of an Act of the legislature, by which the defaulter is prohibited from purchasing the estate. B, upon an understanding with A, becomes the purchaser, and agrees to convey the estate to A upon receiving from him the price which B has paid. The agreement is void, as it renders the transaction, in effect, a purchase by the defaulter, and would so defeat the object of the law.

(*j*.) A, who is B's mukhtár, promises to exercise his influence, as such, with B in favour of C, and C promises to pay 1,000 rupees to A. The agreement is void, because it is immoral.

(*k*.) A agrees to let her daughter to hire to B for concubinage. The agreement is void, because it is immoral, though the letting may not be punishable under the Indian Penal Code.

Void Agreements.

Agreements void, if considerations and objects unlawful in part.

24. If any part of a single consideration for one or more objects, or any one or any part of any one of several considerations for a single object, is unlawful, the agreement is void.

Illustration.

A promises to superintend, on behalf of B, a legal manufacture of indigo, and an illegal traffic in other articles. B promises to pay to A a salary of 10,000 rupees a year. The agreement is void, the object of A's promise, and the consideration for B's promise, being in part unlawful.

Agreement without consideration, void, unless—

25. An agreement made without consideration is void, unless

it is in writing and registered,

(1) it is expressed in writing and registered under the law for the time being in force for the registration of assurances, and is made on account of natural

natural love and affection between parties standing in a near relation to each other; or unless

or is a promise to compensate for something done,

(2) it is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, or something which the promisor was legally compellable to do; or unless

or is a promise to pay a debt barred by limitation law.

(3) it is a promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorized in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.

In any of these cases, such an agreement is a contract.

Explanation 1.—Nothing in this section shall affect the validity, as between the donor and donee, of any gift actually made.

Explanation 2.—An agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate; but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given.

Illustrations.

(*a.*) A promises, for no consideration, to give to B Rs. 1,000. This is a void agreement.

(*b.*) A for natural love and affection, promises to give his son, B, Rs. 1,000. A puts his promise to B into writing and registers it. This is a contract.

(*c.*) A finds B's purse and gives it to him. B promises to give A Rs. 50. This is a contract.

(*d.*) A supports B's infant son. B promises to pay A's expenses in so doing. This is a contract.

(*e.*) A owes B Rs. 1,000, but the debt is barred by the Limitation Act. A signs a written promise to pay B Rs. 500 on account of the debt. This is a contract.

(*f.*) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A's consent to the agreement was freely given. The agreement is a contract notwithstanding the inadequacy of the consideration.

(*g.*) A agrees to sell a horse worth Rs. 1,000 for Rs. 10. A denies that his consent to the agreement was freely given.

The

The inadequacy of the consideration is a fact which the Court should take into account in considering whether or not A's consent was freely given.

26. Every agreement in restraint of the marriage of any person, other than a minor, is void.

Agreement in restraint of marriage, void.

27. Every agreement by which any one is restrained from exercising a lawful profession, trade or business of any kind, is to that extent void.

Agreement in restraint of trade, void.

Exception 1.—One who sells the good-will of a business may agree with the buyer to refrain from carrying on a similar business, within specified local limits, so long as the buyer, or any person deriving title to the good-will from him, carries on a like business therein, provided that such limits appear to the Court reasonable, regard being had to the nature of the business.

Saving of agreement not to carry on business of which good-will is sold;

Exception 2.—Partners may, upon or in anticipation of a dissolution of the partnership, agree that some or all of them will not carry on a business similar to that of the partnership within such local limits as are referred to in the last preceding exception.

of agreement between partners prior to dissolution;

Exception 3.—Partners may agree that some one or all of them will not carry on any business, other than that of the partnership, during the continuance of the partnership.

or during continuance of partnership.

28. Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.

Agreements in restraint of legal proceedings, void.

Exception 1.—This section shall not render illegal a contract, by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to arbitration, and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

Saving of contract to refer to arbitration dispute that may arise.

When

Suits barred by such contracts.

When such a contract has been made, a suit may be brought for its specific performance; and if a suit, other than for such specific performance, or for the recovery of the amount so awarded, is brought by one party to such contract against any other such party, in respect of any subject which they have so agreed to refer, the existence of such contract shall be a bar to the suit.

Saving of contract to refer questions that have already arisen.

Exception 2.—Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of any law in force for the time being as to references to arbitration.

Agreements void for uncertainty.

29. Agreements, the meaning of which is not certain, or capable of being made certain, are void.

Illustrations.

(*a.*) A agrees to sell to B 'a hundred tons of oil.' There is nothing whatever to show what kind of oil was intended. The agreement is void for uncertainty.

(*b.*) A agrees to sell to B one hundred tons of oil of a specified description, known as an article of commerce. There is no uncertainty here to make the agreement void.

(*c.*) A, who is a dealer in cocoanut-oil only, agrees to sell to B 'one hundred tons of oil.' The nature of A's trade affords an indication of the meaning of the words, and A has entered into a contract for the sale of one hundred tons of cocoanut-oil.

(*d.*) A agrees to sell to B 'all the grain in my granary at Rámnagar.' There is no uncertainty here to make the agreement void.

(*e.*) A agrees to sell to B 'one thousand maunds of rice at a price to be fixed by C.' As the price is capable of being made certain, there is no uncertainty here to make the agreement void.

(*f.*) A agrees to sell to B 'my white horse for rupees five hundred or rupees one thousand.' There is nothing to show which of the two prices was to be given. The agreement is void.

Agreements by way of wager, void.

30. Agreements by way of wager are void; and no suit shall be brought for recovering anything alleged to be won on any wager, or entrusted to any person to abide the result of any game or other uncertain event on which any wager is made.

This

This section shall not be deemed to render unlawful a subscription or contribution, or agreement to subscribe or contribute, made or entered into for or toward any plate, prize or sum of money, of the value or amount of five hundred rupees or upwards, to be awarded to the winner or winners of any horse-race.

Exception in favour of certain prizes for horse-racing.

Nothing in this section shall be deemed to legalize any transaction connected with horse-racing, to which the provisions of section 294A of the Indian Penal Code apply.

Section 294A of the Indian Penal Code not affected.

CHAPTER III.

OF CONTINGENT CONTRACTS.

31. A "contingent contract" is a contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

"Contingent contract" defined.

Illustration.

A contracts to pay B Rs. 10,000 if B's house is burnt. This is a contingent contract.

32. Contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law unless and until that event has happened.

Enforcement of contracts contingent on an event happening.

If the event becomes impossible, such contracts become void.

Illustrations.

(*a.*) A makes a contract with B to buy B's horse if A survives C. This contract cannot be enforced by law unless and until C dies in A's lifetime.

(*b.*) A makes a contract with B to sell a horse to B at a specified price, if C, to whom the horse has been offered, refuses to buy him. The contract cannot be enforced by law unless and until C refuses to buy the horse.

(*c.*) A contracts to pay B a sum of money when B marries C. C dies without being married to B. The contract becomes void.

33. Contingent contracts to do or not to do anything if an uncertain future event does not happen, can be enforced when the happening of that event becomes impossible, and not before.

Enforcement of contracts contingent on an event not happening.

Illustration.

Illustration.

A agrees to pay B a sum of money if a certain ship does not return. The ship is sunk. The contract can be enforced when the ship sinks.

When event on which contract is contingent to be deemed impossible, if it is the future conduct of a living person.

34. If the future event on which a contract is contingent is the way in which a person will act at an unspecified time, the event shall be considered to become impossible when such person does anything which renders it impossible that he should so act within any definite time, or otherwise than under further contingencies.

Illustration.

A agrees to pay B a sum of money if B marries C.

C marries D. The marriage of B to C must now be considered impossible, although it is possible that D may die, and that C may afterwards marry B.

When contracts become void, which are contingent on happening of specified event within fixed time.

35. Contingent contracts to do or not to do anything if a specified uncertain event happens within a fixed time, become void if, at the expiration of the time fixed, such event has not happened, or if, before the time fixed, such event becomes impossible.

When contracts may be enforced, which are contingent on specified event not happening within fixed time.

Contingent contracts to do or not to do anything, if a specified uncertain event does not happen within a fixed time, may be enforced by law when the time fixed has expired and such event has not happened, or, before the time fixed has expired, if it becomes certain that such event will not happen.

Illustrations.

(*a.*) A promises to pay B a sum of money if a certain ship returns within a year. The contract may be enforced if the ship returns within the year; and becomes void if the ship is burnt within the year.

(*b.*) A promises to pay B a sum of money if a certain ship does not return within a year. The contract may be enforced if the ship does not return within the year, or is burnt within the year.

Agreements contingent on impossible events, void.

36. Contingent agreements to do or not to do anything, if an impossible event happens, are void, whether the impossibility of the event is known or not to the parties to the agreement at the time when it is made.

Illustrations.

Illustrations.

(*a.*) A agrees to pay B 1,000 rupees if two straight lines should enclose a space. The agreement is void.

(*b.*) A agrees to pay B 1,000 rupees if B will marry A's daughter C. C was dead at the time of the agreement. The agreement is void.

CHAPTER IV.

OF THE PERFORMANCE OF CONTRACTS.

CONTRACTS WHICH MUST BE PERFORMED.

Obligation of parties to contracts.

37. The parties to a contract must either perform, or offer to perform, their respective promises, unless such performance is dispensed with or excused under the provisions of this Act, or of any other law.

Promises bind the representatives of the promisors in case of the death of such promisors before performance, unless a contrary intention appears from the contract.

Illustrations.

(*a.*) A promises to deliver goods to B on a certain day on payment of Rs. 1,000. A dies before that day. A's representatives are bound to deliver the goods to B, and B is bound to pay the Rs. 1,000 to A's representatives.

(*b.*) A promises to paint a picture for B by a certain day, at a certain price. A dies before the day. The contract cannot be enforced either by A's representatives or by B.

Effect of refusal to accept offer of performance.

38. Where a promisor has made an offer of performance to the promisee, and the offer has not been accepted, the promisor is not responsible for non-performance, nor does he thereby lose his rights under the contract.

Every such offer must fulfil the following conditions :—

(1). It must be unconditional :

(2). It must be made at a proper time and place, and under such circumstances that the person to whom it is made may have a reasonable opportunity of ascertaining that the person by whom it is made is able and willing there and then to do the whole of what he is bound by his promise to do :

(3). If

(3). If the offer is an offer to deliver anything to the promisee, the promisee must have a reasonable opportunity of seeing that the thing offered is the thing which the promisor is bound by his promise to deliver.

An offer to one of several joint promisees has the same legal consequences as an offer to all of them.

Illustration.

A contracts to deliver to B at his warehouse, on the first March 1873, 100 bales of cotton of a particular quality. In order to make an offer of performance with the effect stated in this section, A must bring the cotton to B's warehouse, on the appointed day, under such circumstances that B may have a reasonable opportunity of satisfying himself that the thing offered is cotton of the quality contracted for, and that there are 100 bales.

Effect of refusal of party to perform promise wholly.

39. When a party to a contract has refused to perform, or disabled himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance.

Illustrations.

(*a.*) A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night A wilfully absents herself from the theatre. B is at liberty to put an end to the contract.

(*b.*) A, a singer, enters into a contract with B, the manager of a theatre, to sing at his theatre two nights in every week during the next two months, and B engages to pay her at the rate of 100 rupees for each night. On the sixth night, A wilfully absents herself. With the assent of B, A sings on the seventh night. B has signified his acquiescence in the continuance of the contract, and cannot now put an end to it, but is entitled to compensation for the damage sustained by him through A's failure to sing on the sixth night.

By whom Contracts must be performed.

Person by whom promise is to be performed.

40. If it appears from the nature of the case that it was the intention of the parties to any contract that any promise contained in it should be performed by the promisor himself, such promise must be performed by the promisor. In other cases, the

the promisor or his representatives may employ a competent person to perform it.

Illustrations.

(*a.*) A promises to pay B a sum of money. A may perform this promise, either by personally paying the money to B, or by causing it to be paid to B by another; and, if A dies before the time appointed for payment, his representatives must perform the promise, or employ some proper person to do so.

(*b.*) A promises to paint a picture for B. A must perform this promise personally.

Effect of accepting performance from third person.

41. When a promisee accepts performance of the promise from a third person, he cannot afterwards enforce it against the promisor.

Devolution of joint liabilities.

42. When two or more persons have made a joint promise, then, unless a contrary intention appears by the contract, all such persons, during their joint lives, and, after the death of any of them, his representative jointly with the survivor or survivors, and, after the death of the last survivor, the representatives of all jointly, must fulfil the promise.

Any one of joint promisors may be compelled to perform.

43. When two or more persons make a joint promise, the promisee may, in the absence of express agreement to the contrary, compel any one of such joint promisors to perform the whole of the promise.

Each promisor may compel contribution.

Each of two or more joint promisors may compel every other joint promisor to contribute equally with himself to the performance of the promise, unless a contrary intention appears from the contract.

Sharing of loss by default in contribution.

If any one of two or more joint promisors makes default in such contribution, the remaining joint promisors must bear the loss arising from such default in equal shares.

Explanation.—Nothing in this section shall prevent a surety from recovering, from his principal, payments made by the surety on behalf of the principal, or entitle the principal to recover anything from the surety on account of payments made by the principal.

Illustrations.

(*a.*) A, B and C jointly promise to pay D 3,000 rupees. D may compel either A or B or C to pay him 3,000 rupees.

(*b.*) A

(*b.*) A, B and C jointly promise to pay D the sum of 3,000 rupees. C is compelled to pay the whole. A is insolvent, but his assets are sufficient to pay one-half of his debts. C is entitled to receive 500 rupees from A's estate, and 1,250 rupees from B.

(*c.*) A, B and C are under a joint promise to pay D 3,000 rupees. C is unable to pay anything, and A is compelled to pay the whole. A is entitled to receive 1,500 rupees from B.

(*d.*) A, B and C are under a joint promise to pay D 3,000 rupees, A and B being only sureties for C. C fails to pay. A and B are compelled to pay the whole sum. They are entitled to recover it from C.

Effect of release of one joint contractor.

44. Where two or more persons have made a joint promise, a release of one of such joint promisors by the promisee does not discharge the other joint promisor or joint promisors; neither does it free the joint promisor so released from responsibility to the other joint promisor or joint promisors.

Devolution of joint rights.

45. When a person has made a promise to two or more persons jointly, then, unless a contrary intention appears from the contract, the right to claim performance rests, as between him and them, with them during their joint lives, and, after the death of any of them, with the representative of such deceased person jointly with the survivor or survivors, and, after the death of the last survivor, with the representatives of all jointly.

Illustration.

A, in consideration of 5,000 rupees lent to him by B and C, promises B and C jointly to repay them that sum with interest on a day specified. B dies. The right to claim performance rests with B's representative jointly with C during C's life, and, after the death of C, with the representatives of B and C jointly.

TIME AND PLACE FOR PERFORMANCE.

Time for performance of promise, where no time is specified and no application to be made.

46. Where, by the contract, a promisor is to perform his promise without application by the promisee, and no time for performance is specified, the engagement must be performed within a reasonable time.

Explanation.—The question 'what is a reasonable time' is, in each particular case, a question of fact.

47. When

47. When a promise is to be performed on a certain day, and the promisor has undertaken to perform it without application by the promisee, the promisor may perform it at any time during the usual hours of business on such day and at the place at which the promise ought to be performed.

Time and place for performance of promise, where time is specified and no application to be made.

Illustration.

A promises to deliver goods at B's warehouse on the first January. On that day A brings the goods to B's warehouse, but after the usual hour for closing it, and they are not received. A has not performed his promise.

48. When a promise is to be performed on a certain day, and the promisor has not undertaken to perform it without application by the promisee, it is the duty of the promisee to apply for performance at a proper place and within the usual hours of business.

Application for performance to be at proper time and place.

Explanation.—The question 'what is a proper time and place' is, in each particular case, a question of fact.

49. When a promise is to be performed without application by the promisee, and no place is fixed for the performance of it, it is the duty of the promisor to apply to the promisee to appoint a reasonable place for the performance of the promise, and to perform it at such place.

Place for performance of promise, where no application to be made and no place fixed.

Illustration.

A undertakes to deliver a thousand maunds of jute to B on a fixed day. A must apply to B to appoint a reasonable place for the purpose of receiving it, and must deliver it to him at such place.

50. The performance of any promise may be made in any manner, or at any time which the promisee prescribes or sanctions.

Performance in manner or at time prescribed or sanctioned by promisee.

Illustrations.

(*a.*) B owes A 2,000 rupees. A desires B to pay the amount to A's account with C, a banker. B, who also banks with C, orders the amount to be transferred from his account to A's credit, and this is done by C. Afterwards, and before A knows of the transfer, C fails. There has been a good payment by B.

(*b.*) A and B are mutually indebted. A and B settle an account by setting off one item against another, and B pays A the balance found to be due from him upon such settlement.

This

This amounts to a payment by A and B, respectively, of the sums which they owed to each other.

(*c.*) A owes B 2,000 rupees. B accepts some of A's goods in reduction of the debt. The delivery of the goods operates as a part payment.

(*d.*) A desires B, who owes him Rs. 100, to send him a note for Rs. 100 by post. The debt is discharged as soon as B puts into the post a letter containing the note duly addressed to A.

PERFORMANCE OF RECIPROCAL PROMISES.

Promisor not bound to perform, unless reciprocal promisee ready and willing to perform.

51. When a contract consists of reciprocal promises to be simultaneously performed, no promisor need perform his promise unless the promisee is ready and willing to perform his reciprocal promise.

Illustrations.

(*a.*) A and B contract that A shall deliver goods to B to be paid for by B on delivery.

A need not deliver the goods, unless B is ready and willing to pay for the goods on delivery.

B need not pay for the goods, unless A is ready and willing to deliver them on payment.

(*b.*) A and B contract that A shall deliver goods to B at a price to be paid by instalments, the first instalment to be paid on delivery.

A need not deliver, unless B is ready and willing to pay the first instalment on delivery.

B need not pay the first instalment, unless A is ready and willing to deliver the goods on payment of the first instalment.

Order of performance of reciprocal promises.

52. Where the order in which reciprocal promises are to be performed is expressly fixed by the contract, they shall be performed in that order; and where the order is not expressly fixed by the contract, they shall be performed in that order which the nature of the transaction requires.

Illustrations.

(*a.*) A and B contract that A shall build a house for B at a fixed price. A's promise to build the house must be performed before B's promise to pay for it.

(*b.*) A and B contract that A shall make over his stock-in-trade to B at a fixed price, and B promises to give security for the payment of the money. A's promise need not be performed until the security is given, for the nature of the transaction requires that A should have security before he delivers up his stock.

53. When

53. When a contract contains reciprocal promises, and one party to the contract prevents the other from performing his promise, the contract becomes voidable at the option of the party so prevented; and he is entitled to compensation from the other party for any loss which he may sustain in consequence of the non-performance of the contract.

Liability of party preventing event on which contract is to take effect.

Illustration.

A and B contract that B shall execute certain work for A for a thousand rupees. B is ready and willing to execute the work accordingly, but A prevents him from doing so. The contract is voidable at the option of B; and, if he elects to rescind it, he is entitled to recover from A compensation for any loss which he has incurred by its non-performance.

54. When a contract consists of reciprocal promises, such that one of them cannot be performed, or that its performance cannot be claimed till the other has been performed, and the promisor of the promise last mentioned fails to perform it, such promisor cannot claim the performance of the reciprocal promise, and must make compensation to the other party to the contract for any loss which such other party may sustain by the non-performance of the contract.

Effect of default as to that promise which should be first performed, in contract consisting of reciprocal promises.

Illustrations.

(*a.*) A hires B's ship to take in and convey, from Calcutta to the Mauritius, a cargo to be provided by A, B receiving a certain freight for its conveyance. A does not provide any cargo for the ship. A cannot claim the performance of B's promise, and must make compensation to B for the loss which B sustains by the non-performance of the contract.

(*b.*) A contracts with B to execute certain builders' work for a fixed price, B supplying the scaffolding and timber necessary for the work. B refuses to furnish any scaffolding or timber, and the work cannot be executed. A need not execute the work, and B is bound to make compensation to A for any loss caused to him by the non-performance of the contract.

(*c.*) A contracts with B to deliver to him, at a specified price, certain merchandise on board a ship which cannot arrive for a month, and B engages to pay for the merchandise within a week from the date of the contract. B does not pay within the week. A's promise to deliver need not be performed, and B must make compensation.

(*d.*) A promises B to sell him one hundred bales of merchandise, to be delivered next day, and B promises A to pay for them

them within a month. A does not deliver according to his promise. B's promise to pay need not be performed, and A must make compensation.

Effect of failure to perform at fixed time, in contract in which time is essential.

55. When a party to a contract promises to do a certain thing at or before a specified time, or certain things at or before specified times, and fails to do any such thing at or before the specified time, the contract, or so much of it as has not been performed, becomes voidable at the option of the promisee, if the intention of the parties was that time should be of the essence of the contract.

Effect of such failure when time is not essential.

If it was not the intention of the parties that time should be of the essence of the contract, the contract does not become voidable by the failure to do such thing at or before the specified time; but the promisee is entitled to compensation from the promisor for any loss occasioned to him by such failure.

Effect of acceptance of performance at time other than that agreed upon.

If, in case of a contract voidable on account of the promisor's failure to perform his promise at the time agreed, the promisee accepts performance of such promise at any time other than that agreed, the promisee cannot claim compensation for any loss occasioned by the non-performance of the promise at the time agreed, unless, at the time of such acceptance, he gives notice to the promisor of his intention to do so.

Agreement to do impossible act, void.

56. An agreement to do an act impossible in itself is void.

Contract to do impossible act, or one which afterwards becomes impossible or illegal, when void.

A contract to do an act which, after the contract is made, becomes impossible, or, by reason of some event which the promisor could not prevent, unlawful, becomes void when the act becomes impossible or unlawful.

Compensation for loss on non-performance of act known to be impossible or unlawful.

Where one person has promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know, to be impossible or unlawful, such promisor must make compensation to such promisee for any loss which such promisee sustains through the non-performance of the promise.

Illustrations.

Illustrations.

(*a.*) A agrees with B to discover treasure by magic. The agreement is void.

(*b.*) A and B contract to marry each other. Before the time fixed for the marriage, A goes mad. The contract becomes void.

(*c.*) A contracts to marry B, being already married to C, and being forbidden by the law to which he is subject to practise polygamy, A must make compensation to B for the loss caused to her by the non-performance of his promise.

(*d.*) A contracts to take in cargo for B at a foreign port. A's Government afterwards declares war against the country in which the port is situated. The contract becomes void when war is declared.

(*e.*) A contracts to act at a theatre for six months in consideration of a sum paid in advance by B. On several occasions A is too ill to act. The contract to act on those occasions becomes void.

Where there are promises to do things legal, and also other things illegal, the former are a contract, the latter a void agreement.

57. Where persons reciprocally promise, firstly to do certain things which are legal, and, secondly, under specified circumstances, to do certain other things which are illegal, the first set of promises is a contract, but the second is a void agreement.

Illustration.

A and B agree that A shall sell B a house for 10,000 rupees, but that, if B uses it as a gambling house, he shall pay A 50,000 rupees for it.

The first set of reciprocal promises, namely, to sell the house and to pay 10,000 rupees for it, is a contract

The second set is for an unlawful object, namely, that B may use the house as a gambling house, and is a void agreement.

In alternative promise, one branch being illegal, legal branch alone enforceable.

58. In the case of an alternative promise, one branch of which is legal and the other illegal, the legal branch alone can be enforced.

Illustration.

A and B agree that A shall pay B 1,000 rupees, for which B shall afterwards deliver to A either rice or smuggled opium.

This is a valid contract to deliver rice, and a void agreement as to the opium.

Appropriation of Payments.

Application of payment where debt to be discharged is indicated.

59. Where a debtor, owing several distinct debts to one person, makes a payment to him, either with express intimation, or under circumstances implying, that

that the payment is to be applied to the discharge of some particular debt, the payment, if accepted, must be applied accordingly.

Illustrations.

(*a.*) A owes B, among other debts, 1,000 rupees upon a promissory note, which falls due on the first June. He owes B no other debt of that amount. On the first June A pays to B 1,000 rupees. The payment is to be applied to the discharge of the promissory note.

(*b.*) A owes to B, among other debts, the sum of 567 rupees. B writes to A and demands payment of this sum. A sends to B 567 rupees. This payment is to be applied to the discharge of the debt of which B had demanded payment.

Application of payment where debt to be discharged is not indicated.

60. Where the debtor has omitted to intimate, and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

Application of payment where neither party makes appropriation.

61. Where neither party makes any appropriation, the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payment shall be applied in discharge of each proportionably.

CONTRACTS WHICH NEED NOT BE PERFORMED.

Contracts changed, rescinded or altered need not be performed.

62. If the parties to a contract agree to substitute a new contract for it, or to rescind or alter it, the original contract need not be performed.

Illustrations.

(*a.*) A owes money to B under a contract. It is agreed between A, B and C, that B shall thenceforth accept C as his debtor, instead of A. The old debt of A to B is at an end, and a new debt from C to B has been contracted.

(*b.*) A owes B 10,000 rupees. A enters into an arrangement with B, and gives B a mortgage of his (A's) estate for 5,000 rupees in place of the debt of 10,000 rupees. This is a new contract and extinguishes the old.

(*c.*) A owes B 1,000 rupees under a contract. B owes C 1,000 rupees. B orders A to credit C with 1,000 rupees in his books,

books, but C does not assent to the arrangement. B still owes C 1,000 rupees, and no new contract has been entered into.

Promisee may dispense with or remit performance of promise.

63. Every promisee may dispense with or remit, wholly or in part, the performance of the promise made to him, or may extend the time for such performance, or may accept instead of it any satisfaction which he thinks fit.

Illustrations.

(*a.*) A promises to paint a picture for B. B afterwards forbids him to do so. A is no longer bound to perform the promise.

(*b.*) A owes B 5,000 rupees. A pays to B, and B accepts, in satisfaction of the whole debt, 2,000 rupees paid at the time and place at which the 5,000 rupees were payable. The whole debt is discharged.

(*c.*) A owes B 5,000 rupees. C pays to B 1,000 rupees, and B accepts them, in satisfaction of his claim on A. This payment is a discharge of the whole claim.

(*d.*) A owes B, under a contract, a sum of money, the amount of which has not been ascertained. A, without ascertaining the amount, gives to B, and B, in satisfaction thereof, accepts, the sum of 2,000 rupees. This is a discharge of the whole debt, whatever may be its amount.

(*e.*) A owes B 2,000 rupees, and is also indebted to other creditors. A makes an arrangement with his creditors, including B, to pay them a compensation of eight annas in the rupee upon their respective demands. Payment to B of 1,000 rupees is a discharge of B's demand.

Consequences of rescission of voidable contract.

64. When a person at whose option a contract is voidable rescinds it, the other party thereto need not perform any promise therein contained in which he is promisor. The party rescinding a voidable contract shall, if he have received any benefit thereunder from another party to such contract, restore such benefit, so far as may be, to the person from whom it was received.

Obligation of person who has received advantage under void agreement, or contract that becomes void.

65. When an agreement is discovered to be void, or when a contract becomes void, any person who has received any advantage under such agreement or contract is bound to restore it, or to make compensation for it, to the person from whom he received it.

Illustrations.

(*a.*) A pays B 1,000 rupees, in consideration of B's promising to marry C, A's daughter. C is dead at the time of the

the promise. The agreement is void, but B must repay A the 1,000 rupees.

(*b.*) A contracts with B to deliver to him 250 maunds of rice before the first of May. A delivers 130 maunds only before that day, and none after. B retains the 130 maunds after the first of May. He is bound to pay A for them.

(*c.*) A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her a hundred rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B must pay A for the five nights on which she had sung.

(*d.*) A contracts to sing for B at a concert for 1,000 rupees, which are paid in advance. A is too ill to sing. A is not bound to make compensation to B for the loss of the profits which B would have made if A had been able to sing, but must refund to B the 1,000 rupees paid in advance.

Mode of communicating or revoking rescission of voidable contract.

66. The rescission of a voidable contract may be communicated or revoked in the same manner, and subject to the same rules, as apply to the communication or revocation of a proposal.

Effect of neglect of promisee to afford promisor reasonable facilities for performance.

67. If any promisee neglects or refuses to afford the promisor reasonable facilities for the performance of his promise, the promisor is excused by such neglect or refusal as to any non-performance caused thereby.

Illustration.

A contracts with B to repair B's house.

B neglects or refuses to point out to A the places in which his house requires repair.

A is excused for the non-performance of the contract, if it is caused by such neglect or refusal.

CHAPTER V.

Of certain Relations resembling those created by Contract.

Claim for necessaries supplied to person incapable of contracting, or on his account.

68. If a person, incapable of entering into a contract, or any one whom he is legally bound to support, is supplied by another person with necessaries suited to his condition in life, the person who has

has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

Illustrations.

(*a.*) A supplies B, a lunatic, with necessaries suitable to his condition in life. A is entitled to be reimbursed from B's property.

(*b.*) A supplies the wife and children of B, a lunatic, with necessaries suitable to their condition in life. A is entitled to be reimbursed from B's property.

69. A person who is interested in the payment of money which another is bound by law to pay, and who therefore pays it, is entitled to be reimbursed by the other.

Reimbursement of person paying money due by another, in payment of which he is interested.

Illustration.

B holds land in Bengal, on a lease granted by A, the zamíndár. The revenue payable by A to the Government being in arrear, his land is advertised for sale by the Government. Under the revenue law, the consequence of such sale will be the annulment of B's lease. B, to prevent the sale and the consequent annulment of his own lease, pays to the Government the sum due from A. A is bound to make good to B the amount so paid.

70. Where a person lawfully does anything for another person, or delivers anything to him, not intending to do so gratuitously, and such other person enjoys the benefit thereof, the latter is bound to make compensation to the former in respect of, or to restore, the thing so done or delivered.

Obligation of person enjoying benefit of nongratuitous act.

Illustrations.

(*a.*) A, a tradesman, leaves goods at B's house by mistake. B treats the goods as his own. He is bound to pay A for them.

(*b.*) A saves B's property from fire. A is not entitled to compensation from B, if the circumstances show that he intended to act gratuitously.

71. A person who finds goods belonging to another, and takes them into his custody, is subject to the same responsibility as a bailee.

Responsibility of finder of goods.

72. A person to whom money has been paid, or any thing delivered, by mistake or under coercion, must repay or return it.

Liability of person to whom money is paid, or thing delivered, by mistake or under coercion.

Illustrations.

(*a.*) A and B jointly owe 100 rupees to C. A alone pays the amount to C, and B, not knowing this fact, pays 100 rupees over again to C. C is bound to repay the amount to B.

(*b.*) A

(*b.*) A railway company refuses to deliver up certain goods to the consignee, except upon the payment of an illegal charge for carriage. The consignee pays the sum charged in order to obtain the goods. He is entitled to recover so much of the charge as was illegally excessive.

CHAPTER VI.

OF THE CONSEQUENCES OF BREACH OF CONTRACT.

Compensation for loss or damage caused by breach of contract.

73. When a contract has been broken, the party who suffers by such breach is entitled to receive, from the party who has broken the contract, compensation for any loss or damage caused to him thereby, which naturally arose in the usual course of things from such breach, or which the parties knew, when they made the contract, to be likely to result from the breach of it.

Such compensation is not to be given for any remote and indirect loss or damage sustained by reason of the breach.

Compensation for failure to discharge obligation resembling those created by contract.

When an obligation resembling those created by contract has been incurred and has not been discharged, any person injured by the failure to discharge it is entitled to receive the same compensation from the party in default, as if such person had contracted to discharge it and had broken his contract.

Explanation.—In estimating the loss or damage arising from a breach of contract, the means which existed of remedying the inconvenience caused by the non-performance of the contract must be taken into account.

Illustrations.

(*a.*) A contracts to sell and deliver 50 maunds of saltpetre to B, at a certain price to be paid on delivery. A breaks his promise. B is entitled to receive from A, by way of compensation, the sum, if any, by which the contract price falls short of the price for which B might have obtained 50 maunds of saltpetre of like quality at the time when the saltpetre ought to have been delivered.

(*b.*) A hires B's ship to go to Bombay, and there take on board, on the first of January, a cargo, which A is to provide, and to bring it to Calcutta, the freight to be paid when earned. B's ship does not go to Bombay, but A has opportunities of procuring suitable

suitable conveyance for the cargo upon terms as advantageous as those on which he had chartered the ship. . A avails himself of those opportunities, but is put to trouble and expense in doing so. A is entitled to receive compensation from B in respect of such trouble and expense.

(*c.*) A contracts to buy of B, at a stated price, 50 maunds of rice, no time being fixed for delivery. A afterwards informs B that he will not accept the rice if tendered to him. B is entitled to receive from A, by way of compensation, the amount, if any, by which the contract price exceeds that which B can obtain for the rice at the time when A informs B that he will not accept it.

(*d.*) A contracts to buy B's ship for 60,000 rupees, but breaks his promise. A must pay to B, by way of compensation, the excess, if any, of the contract price over the price which B can obtain for the ship at the time of the breach of promise.

(*e.*) A, the owner of a boat, contracts with B to take a cargo of jute to Mirzapur, for sale at that place, starting on a specified day. The boat, owing to some avoidable cause, does not start at the time appointed, whereby the arrival of the cargo at Mirzapur is delayed beyond the time when it would have arrived if the boat had sailed according to the contract. After that date, and before the arrival of the cargo, the price of jute falls. The measure of the compensation payable to B by A is the difference between the price which B could have obtained for the cargo at Mirzapur at the time when it would have arrived if forwarded in due course, and its market price at the time when it actually arrived.

(*f.*) A contracts to repair B's house in a certain manner, and receives payment in advance. A repairs the house, but not according to contract. B is entitled to recover from A the cost of making the repairs conform to the contract.

(*g.*) A contracts to let his ship to B for a year, from the first of January, for a certain price. Freights rise, and, on the first of January, the hire obtainable for the ship is higher than the contract price. A breaks his promise. He must pay to B, by way of compensation, a sum equal to the difference between the contract price and the price for which B could hire a similar ship for a year on and from the first of January.

(*h.*) A contracts to supply B with a certain quantity of iron at a fixed price, being a higher price than that for which A could procure and deliver the iron. B wrongfully refuses to receive the iron. B must pay to A, by way of compensation, the difference between the contract price of the iron and the sum for which A could have obtained and delivered it.

(*i.*) A delivers to B, a common carrier, a machine, to be conveyed, without delay, to A's mill, informing B that his mill is stopped for want of the machine. B unreasonably delays the delivery of the machine, and A, in consequence, loses a profitable

fitable contract with the Government. A is entitled to receive from B, by way of compensation, the average amount of profit which would have been made by the working of the mill during the time that delivery of it was delayed, but not the loss sustained through the loss of the Government contract.

(*j.*) A, having contracted with B to supply B with 1,000 tons of iron at 100 rupees a ton, to be delivered at a stated time, contracts with C for the purchase of 1,000 tons of iron at 80 rupees a ton, telling C that he does so for the purpose of performing his contract with B. C fails to perform his contract with A, who cannot procure other iron, and B, in consequence, rescinds the contract. C must pay to A 20,000 rupees, being the profit which A would have made by the performance of his contract with B.

(*k.*) A contracts with B to make and deliver to B, by a fixed day, for a specified price, a certain piece of machinery. A does not deliver the piece of machinery at the time specified, and, in consequence of this, B is obliged to procure another at a higher price than that which he was to have paid to A, and is prevented from performing a contract which B had made with a third person at the time of his contract with A (but which had not been then communicated to A), and is compelled to make compensation for breach of that contract. A must pay to B, by way of compensation, the difference between the contract price of the piece of machinery and the sum paid by B for another, but not the sum paid by B to the third person by way of compensation.

(*l.*) A, a builder, contracts to erect and finish a house by the first of January, in order that B may give possession of it at that time to C, to whom B has contracted to let it. A is informed of the contract between B and C. A builds the house so badly that, before the first of January, it falls down and has to be re-built by B, who, in consequence, loses the rent which he was to have received from C, and is obliged to make compensation to C for the breach of his contract. A must make compensation to B for the cost of rebuilding the house, for the rent lost, and for the compensation made to C.

(*m.*) A sells certain merchandise to B, warranting it to be of a particular quality, and B, in reliance upon this warranty, sells it to C with a similar warranty. The goods prove to be not according to the warranty, and B becomes liable to pay C a sum of money by way of compensation. B is entitled to be reimbursed this sum by A.

(*n.*) A contracts to pay a sum of money to B on a day specified. A does not pay the money on that day. B, in consequence of not receiving the money on that day, is unable to pay his debts, and is totally ruined. A is not liable to make good to B anything except the principal sum he contracted to pay, together with interest up to the day of payment.

(*o.*) A

(*o.*) A contracts to deliver 50 maunds of saltpetre to B on the first of January, at a certain price. B, afterwards, before the first of January, contracts to sell the saltpetre to C at a price higher than the market price of the first of January. A breaks his promise. In estimating the compensation payable by A to B, the market price of the first of January, and not the profit which would have arisen to B from the sale to C, is to be taken into account.

(*p.*) A contracts to sell and deliver 500 bales of cotton to B on a fixed day. A knows nothing of B's mode of conducting his business. A breaks his promise, and B, having no cotton, is obliged to close his mill. A is not responsible to B for the loss caused to B by the closing of the mill.

(*q.*) A contracts to sell and deliver to B, on the first of January, certain cloth which B intends to manufacture into caps of a particular kind, for which there is no demand, except at that season. The cloth is not delivered till after the appointed time, and too late to be used that year in making caps. B is entitled to receive from A, by way of compensation, the difference between the contract price of the cloth and its market price at the time of delivery, but not the profits which he expected to obtain by making caps, nor the expenses which he has been put to in making preparation for the manufacture.

(*r.*) A, a ship-owner, contracts with B to convey him from Calcutta to Sydney in A's ship, sailing on the first of January, and B pays to A, by way of deposit, one-half of his passage-money. The ship does not sail on the first of January, and B, after being, in consequence, detained in Calcutta for some time, and thereby put to some expense, proceeds to Sydney in another vessel; and, in consequence, arriving too late in Sydney, loses a sum of money. A is liable to repay to B his deposit, with interest, and the expense to which he is put by his detention in Calcutta, and the excess, if any, of the passage-money paid for the second ship over that agreed upon for the first, but not the sum of money which B lost by arriving in Sydney too late.

Title to compensation for breach of contract in which a sum is named as payable in case of breach.

74. When a contract has been broken, if a sum is named in the contract as the amount to be paid in case of such breach, the party complaining of the breach is entitled, whether or not actual damage or loss is proved to have been caused thereby, to receive from the party who has broken the contract reasonable compensation not exceeding the amount so named.

EXCEPTION.—When any person enters into any bail-bond, recognizance or other instrument of the same nature, or, under the provisions of any law, or under

under the orders of the Government of India or of any Local Government, gives any bond for the performance of any public duty or act in which the public are interested, he shall be liable, upon breach of the condition of any such instrument, to pay the whole sum mentioned therein.

Explanation.—A person who enters into a contract with Government does not necessarily thereby undertake any public duty, or promise to do an act in which the public are interested.

Illustrations.

(*a*.) A contracts with B to pay B Rs. 1,000, if he fails to pay B Rs. 500 on a given day. A fails to pay B Rs. 500 on that day. B is entitled to recover from A such compensation, not exceeding Rs. 1,000, as the Court considers reasonable..

(*b*.) A contracts with B that, if A practises as a surgeon within Calcutta, he will pay B Rs. 5,000. A practises as a surgeon in Calcutta. B is entitled to such compensation, not exceeding Rs. 5,000, as the Court considers reasonable.

(*c*.) A gives a recognizance binding him in a penalty of Rs. 500 to appear in Court on a certain day. He forfeits his recognizance. He is liable to pay the whole penalty..

Party rightfully rescinding contract, entitled to compensation.

75. A person who rightfully rescinds a contract is entitled to compensation for any damage which he has sustained through the non-fulfilment of the contract.

Illustration.

A, a singer, contracts with B, the manager of a theatre, to sing at his theatre for two nights in every week during the next two months, and B engages to pay her 100 rupees for each night's performance. On the sixth night, A wilfully absents herself from the theatre, and B, in consequence, rescinds the contract. B is entitled to claim compensation for the damage which he has sustained through the non-fulfilment of the contract.

CHAPTER VII.

SALE OF GOODS.

WHEN PROPERTY IN GOODS SOLD PASSES.

'Goods' defined.

76. In this chapter, the word 'goods' means and includes every kind of moveable property.

77. Sale

77. 'Sale' is the exchange of property for a price. It involves the transfer of the ownership of the thing sold from the seller to the buyer. 'Sale' defined.

78. Sale is effected by offer and acceptance of ascertained goods for a price, Sale how effected.

or of a price for ascertained goods,

together with payment of the price or delivery of the goods; or with tender, part-payment, earnest or part-delivery; or with an agreement, express or implied, that the payment or delivery, or both, shall be postponed.

Where there is a contract for the sale of ascertained goods, the property in the goods sold passes to the buyer when the whole or part of the price, or when the earnest, is paid, or when the whole or part of the goods is delivered.

If the parties agree, expressly or by implication, that the payment or delivery, or both, shall be postponed, the property passes as soon as the proposal for sale is accepted.

Illustrations.

(*a.*) B offers to buy A's horse for 500 rupees. A accepts B's offer, and delivers the horse to B. The horse becomes B's property on delivery.

(*b.*) A sends goods to B, with the request that he will buy them at a stated price if he approves of them, or return them if he does not approve of them. B retains the goods, and informs A that he approves of them. The goods become B's when B retains them.

(*c.*) B offers A, for his horse, 1,000 rupees, the horse to be delivered to B on a stated day, and the price to be paid on another stated day. A accepts the offer. The horse becomes B's as soon as the proposal is accepted.

(*d.*) B offers A, for his horse, 1,000 rupees, on a month's credit. A accepts the offer. The horse becomes B's as soon as the offer is accepted.

(*e.*) B, on the first January, offers to A, for a quantity of rice, 2,000 rupees, to be paid on the first March following, the rice not to be taken away till paid for. A accepts the offer. The rice becomes B's as soon as the offer is accepted.

79. Where

Transfer of ownership of thing sold, which has yet to be ascertained, made or finished.

79. Where there is a contract for the sale of a thing which has yet to be ascertained, made or finished, the ownership of the thing is not transferred to the buyer until it is ascertained, made or finished.

Illustration.

B orders A, a barge-builder, to make him a barge. The price is not made payable by instalments. While the barge is building, B pays to A money from time to time on account of the price. The ownership of the barge does not pass to B until it is finished.

Completion of sale of goods which the seller is to put into state in which buyer is to take them.

80. Where, by a contract for the sale of goods, the seller is to do anything to them for the purpose of putting them into a state in which the buyer is to take them, the sale is not complete until such thing has been done.

Illustration.

A, a ship-builder, contracts to sell to B, for a stated price, a vessel which is lying in A's yard; the vessel to be rigged and fitted for a voyage, and the price to be paid on delivery. Under the contract, the property in the vessel does not pass to B until the vessel has been rigged, fitted up, and delivered.

Completion of sale of goods, when seller has to do anything thereto in order to ascertain price.

81. Where anything remains to be done to the goods by the seller for the purpose of ascertaining the amount of the price, the sale is not complete until this has been done.

Illustrations.

(*a.*) A, the owner of a stack of bark, contracts to sell it to B, weigh and deliver it, at 100 rupees per ton. B agrees to take and pay for it on a certain day. Part is weighed and delivered to B; the ownership of the residue is not transferred to B until it has been weighed pursuant to the contract.

(*b.*) A contracts to sell a heap of clay to B at a certain price per ton. B is, by the contract, to load the clay in his own carts, and to weigh each load at a certain weighing machine, which his carts must pass on their way from A's ground to B's place of deposit. Here, nothing more remains to be done by the seller; the sale is complete, and the ownership of the heap of clay is transferred at once.

Completion of sale, when goods are unascertained at date of contract.

82. Where the goods are not ascertained at the time of making the contract of sale, it is necessary to the completion of the sale that the goods shall be ascertained.

Illustration.

Illustration.

A agrees to sell to B, 20 tons of oil in A's cisterns. A's cisterns contain more than 20 tons of oil. No portion of the oil has become the property of B.

Ascertainment of goods by subsequent appropriation.

83. Where the goods are not ascertained at the time of making the agreement for sale, but goods answering the description in the agreement are subsequently appropriated by one party, for the purpose of the agreement, and that appropriation is assented to by the other, the goods have been ascertained, and the sale is complete.

Illustration.

A, having a quantity of sugar in bulk, more than sufficient to fill 20 hogsheads, contracts to sell B 20 hogsheads of it. After the contract, A fills 20 hogsheads with the sugar, and gives notice to B that the hogsheads are ready, and requires him to take them away. B says he will take them as soon as he can. By this appropriation by A, and assent by B, the sugar becomes the property of B.

Ascertainment of goods by seller's selection.

84. Where the goods are not ascertained at the time of making the contract of sale, and, by the terms of the contract, the seller is to do an act with reference to the goods which cannot be done until they are appropriated to the buyer, the seller has a right to select any goods answering to the contract, and by his doing so, the goods are ascertained.

Illustration.

B agrees with A to purchase of him, at a stated price, to be paid on a fixed day, 50 maunds of rice out of a larger quantity in A's granary. It is agreed that B shall send sacks for the rice, and that A shall put the rice into them. B does so, and A puts 50 maunds of rice into the sacks. The goods have been ascertained.

Transfer of ownership of moveable property, when sold together with immoveable.

85. Where an agreement is made for the sale of immoveable and moveable property combined, the ownership of the moveable property does not pass before the transfer of the immoveable property.

Illustration.

A agrees with B for the sale of a house and furniture. The ownership of the furniture does not pass to B until the house is conveyed to B.

86. When

Buyer to bear loss after goods have become his property.

86. When goods have become the property of the buyer, he must bear any loss arising from their destruction or injury.

Illustrations.

(*a.*) B offers, and A accepts, 100 rupees for a stack of fire-wood standing on A's premises, the fire-wood to be allowed to remain on A's premises till a certain day, and not to be taken away till paid for. Before payment, and while the fire-wood is on A's premises, it is accidentally destroyed by fire. B must bear the loss.

(*b.*) A bids 1,000 rupees for a picture at a sale by auction. After the bid, it is injured by an accident. If the accident happens before the hammer falls, the loss falls on the seller; if afterwards, on A.

Transfer of ownership of goods agreed to be sold while non-existent.

87. When there is a contract for the sale of goods not yet in existence, the ownership of the goods may be transferred by acts done, after the goods are produced in pursuance of the contract, by the seller, or by the buyer with the seller's assent.

Illustrations.

(*a.*) A contracts to sell to B, for a stated price, all the indigo which shall be produced at A's factory during the ensuing year. A, when the indigo has been manufactured, gives B an acknowledgment that he holds the indigo at his disposal. The ownership of the indigo vests in B from th date of the acknowledgment.

(*b.*) A, for a stated price, contracts that B may take a sell any crops that shall be grown on A's land in succession the crops then standing. Under this contract, B, with 3, assent of A, takes possession of some crops grown in succe sion to the crops standing at the time of the contract. Th ownership of the crops, when taken possession of, vests in B.

(*c.*) A, for a stated price, contracts that B may take ar sell any crops that shall be grown on his land in successio to the crops then standing. Under this contract, B applie to A for possession of some crops grown in succession to the crops which were standing at the time of the contract. A refuses to give possession. The ownership of the crops has not passed to B, though A may commit a breach of contract in refusing to give possession.

Contract to sell and deliver, at a future day, goods not in seller's possession at date of contract.

88. A contract for the sale of goods to be delivered at a future day is binding, though the goods are not in the possession of the seller at the time of making the contract, and though, at that time, he has no reasonable expectation of acquiring them otherwise than by purchase.

Illustr

Illustration.

A contracts, on the first January, to sell B 50 shares in the East Indian Railway Company, to be delivered and paid for on the first March of the same year. A, at the time of making the contract, is not in possession of any shares. The contract is valid.

89. Where the price of goods sold is not fixed by the contract of sale, the buyer is bound to pay the seller such a price as the Court considers reasonable. Determination of price not fixed by contract.

Illustration.

B, living at Patna, orders of A, a coach-builder at Calcutta, a carriage of a particular description. Nothing is said by either as to the price. The order having been executed, and the price being in dispute between the buyer and the seller, the Court must decide what price it considers reasonable.

DELIVERY.

90. Delivery of goods sold may be made by doing anything which has the effect of putting them in the possession of the buyer, or of any person authorized to hold them on his behalf. Delivery how made.

Illustrations.

(*a.*) A sells to B a horse, and causes or permits it to be removed from A's stables to B's. The removal to B's stable is a delivery.

(*b.*) B, in England, orders 100 bales of cotton from A, a merchant of Bombay, and sends his own ship to Bombay for the cotton. The putting the cotton on board the ship is a delivery to B.

(*c.*) A sells to B certain specific goods which are locked up in a godown. A gives B the key of the godown, in order that he may get the goods. This is a delivery.

(*d.*) A sells to B five specific casks of oil. The oil is in the warehouse of A. B sells the five casks to C. A receives warehouse rent for them from C. This amounts to a delivery of the oil to C, as it shows an assent on the part of A to hold the goods as warehouseman of C.

(*e.*) A sells to B 50 maunds of rice in the possession of C, a warehouseman. A gives B an order to C to transfer the rice to B, and C assents to such order, and transfers the rice in his books to B. This is a delivery.

(*f.*) A agrees to sell B five tons of oil, at 1,000 rupees per ton, to be paid for at the time of delivery. A gives to C, a wharfinger, at whose wharf he had twenty tons of the oil, an order to transfer five of them into the name of B. C makes the transfer

transfer in his books, and gives A's clerk a notice of the transfer for B. A's clerk takes the transfer notice to B, and offers to give it him on payment of the price of the oil. B refuses to pay. There has been no delivery to B, as B never assented to make C his agent to hold for him the five tons selected by A.

Effect of delivery to wharfinger or carrier.

91. A delivery to a wharfinger or carrier of the goods sold, has the same effect as a delivery to the buyer, but does not render the buyer liable for the price of goods which do not reach him, unless the delivery is so made as to enable him to hold the wharfinger or carrier responsible for the safe custody or delivery of the goods.

Illustration.

B, at Agra, orders of A, who lives at Calcutta, three casks of oil to be sent to him by railway. A takes three casks of oil directed to B to the railway station, and leaves them there without conforming to the rules which must be complied with in order to render the Railway Company responsible for their safety. The goods do not reach B. There has not been a sufficient delivery to charge B in a suit for the price.

Effect of part-delivery.

92. A delivery of part of goods, in progress of the delivery of the whole, has the same effect, for the purpose of passing the property in such goods, as a delivery of the whole; but a delivery of part of the goods, with an intention of severing it from the whole, does not operate as a delivery of the remainder.

Illustrations.

(*a.*) A ship arrives in a harbour laden with a cargo consigned to A, the buyer of the cargo. The captain begins to discharge it, and delivers over part of the goods to A in progress of the delivery of the whole. This is a delivery of the cargo to A for the purpose of passing the property in the cargo.

(*b.*) A sells to B a stack of fire-wood, to be paid for by B on delivery. After the sale, B applies for and obtains from A leave to take away some of the fire-wood. This has not the legal effect of delivery of the whole.

(*c.*) A sells 50 maunds of rice to B. The rice remains in A's warehouse. After the sale, B sells to C 10 maunds of the rice, and A, at B's desire, sends the 10 maunds to C. This has not the legal effect of a delivery of the whole.

Seller not bound to deliver until a buyer applies for delivery.

93. In the absence of any special promise, the seller of goods is not bound to deliver them until the buyer applies for delivery.

94. I

94. In the absence of any special promise as to delivery, goods sold are to be delivered at the place at which they are at the time of the sale; and goods contracted to be sold are to be delivered at the place at which they are at the time of the contract for sale, or, if not then in existence, at the place at which they are produced.

Place of delivery.

Seller's Lien.

95. Unless a contrary intention appears by the contract, a seller has a lien on sold goods as long as they remain in his possession and the price or any part of it remains unpaid.

Seller's lien.

96. Where, by the contract, the payment is to be made at a future day, but no time is fixed for the delivery of the goods, the seller has no lien, and the buyer is entitled to a present delivery of the goods without payment. But if the buyer becomes insolvent before delivery of the goods, or if the time appointed for payment arrives before the delivery of the goods, the seller may retain the goods for the price.

Lien where payment to be made at a future day, but no time fixed for delivery.

Explanation.—A person is insolvent who has ceased to pay his debts in the usual course of business, or who is incapable of paying them.

'Insolvency' defined.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse. Before the expiry of the three months, B becomes insolvent. A may retain the goods for the price.

97. Where, by the contract, the payment is to be made at a future day, and the buyer allows the goods to remain in the possession of the seller until that day, and does not then pay for them, the seller may retain the goods for the price.

Seller's lien where payment to be made at future day, and buyer allows goods to remain in seller's possession.

Illustration.

A sells to B a quantity of sugar in A's warehouse. It is agreed that three months' credit shall be given. B allows the sugar to remain in A's warehouse till the expiry of the three months, and then does not pay for them. A may retain the goods for the price.

98. A

Seller's lien against subsequent buyer.

98. A seller, in possession of goods sold, may retain them for the price against any subsequent buyer, unless the seller has recognized the title of the subsequent buyer.

STOPPAGE IN TRANSIT.

Power of seller to stop in transit.

99. A seller who has parted with the possession of the goods, and has not received the whole price, may, if the buyer becomes insolvent, stop the goods while they are in transit to the buyer.

When goods are to be deemed in transit.

100. Goods are to be deemed in transit while they are in the possession of the carrier, or lodged at any place in the course of transmission to the buyer, and are not yet come into the possession of the buyer or any person on his behalf, otherwise than as being in possession of the carrier, or as being so lodged.

Illustrations.

(*a.*) B, living at Madras, orders goods of A, at Patna, and directs that they shall be sent to Madras. The goods are sent to Calcutta, and there delivered to C, a wharfinger, to be forwarded to Madras. The goods, while they are in the possession of C, are in transit.

(*b.*) B, at Delhi, orders goods of A, at Calcutta. A consigns and forwards the goods to B at Delhi. On arrival there, they are taken to the warehouse of B, and left there. B refuses to receive them, and immediately afterwards stops payment. The goods are in transit.

(*c.*) B, who lives at Púná, orders goods of A at Bombay. A sends them to Púná by C, a carrier appointed by B. The goods arrive at Púná, and are placed by C, at B's request, in C's warehouse for B. The goods are no longer in transit.

(*d.*) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. The transit is at an end when the cotton is delivered on board the ship.

(*e.*) B, a merchant of London, orders 100 bales of cotton of A, a merchant at Bombay. B sends his own ship to Bombay for the cotton. A delivers the cotton on board the ship, and takes bills of lading from the master, making the cotton deliverable to A's order or assigns. The cotton arrives at London, but, before coming into B's possession, B becomes insolvent. The cotton has not been paid for. A may stop the cotton.

Continuance of right of stoppage.

101. The seller's right of stoppage does not, except in the cases hereinafter mentioned, cease on the buyer's

reselling

reselling the goods while in transit, and receiving the price, but continues until the goods have been delivered to the second buyer, or to some person on his behalf.

Cessation of right on assignment, by buyer, of document showing title.

102. The right of stoppage ceases if the buyer, having obtained a bill of lading or other document showing title to the goods, assigns it, while the goods are in transit, to a second buyer, who is acting in good faith, and who gives valuable consideration for them.

Illustrations.

(*a.*) A sells and consigns certain goods to B, and sends him the bill of lading. A being still unpaid, B becomes insolvent, and while the goods are in transit, assigns the bill of lading for cash to C, who is not aware of his insolvency. A cannot stop the goods in transit.

(*b.*) A sells and consigns certain goods to B. A being still unpaid, B becomes insolvent, and, while the goods are still in transit, assigns the bill of lading for cash to C, who knows that B is insolvent. The assignment not being in good faith, A may still stop the goods in transit.

How seller may stop where instrument of title assigned to secure specific advance.

103. Where a bill of lading or other instrument of title to any goods is assigned by the buyer of such goods by way of pledge, to secure an advance made specifically upon it, in good faith, the seller cannot, except on payment or tender to the pledgee of the advance so made, stop the goods in transit.

Illustrations.

(*a.*) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure a specific advance of 5,000 rupees made to him upon the bill of lading by C. B becomes insolvent, being indebted to C to the amount of 9,000 rupees. A is not entitled to stop the goods except on payment or tender to C of 5,000 rupees.

(*b.*) A sells and consigns goods to B of the value of 12,000 rupees. B assigns the bill of lading for these goods to C, to secure the sum of 5,000 rupees due from him to C, upon a general balance of account. B becomes insolvent. A is entitled to stop the goods in transit without payment or tender to C of the 5,000 rupees.

Stoppage how effected.

104. The seller may effect stoppage in transit, either by taking actual possession of the goods, or by giving notice of his claim to the carrier or other depositary in whose possession they are.

105. Such

Notice of seller's claim.

105. Such notice may be given, either to the person who has the immediate possession of the goods, or to the principal whose servant has possession. In the latter case, the notice must be given at such a time, and under such circumstances, that the principal, by the exercise of reasonable diligence, may communicate it to his servant in time to prevent a delivery to the buyer.

Right of seller on stoppage.

106. Stoppage in transit entitles the seller to hold the goods stopped until the price of the whole of the goods sold is paid.

Illustration.

A sells to B 100 bales of cotton; 60 bales having come into B's possession, and 40 being still in transit, B becomes insolvent, and A, being still unpaid, stops the 40 bales in transit. A is entitled to hold the 40 bales until the price of the 100 bales is paid.

RESALE.

Resale on buyer's failure to perform.

107. Where the buyer of goods fails to perform his part of the contract, either by not taking the goods sold to him, or by not paying for them, the seller, having a lien on the goods, or having stopped them in transit, may, after giving notice to the buyer of his intention to do so, resell them, after the lapse of a reasonable time, and the buyer must bear any loss, but is not entitled to any profit, which may occur on such resale.

TITLE.

Title conveyed by seller of goods to buyer.

108. No seller can give to the buyer of goods a better title to those goods than he has himself, except in the following cases:—

EXCEPTION 1.—When any person is, by the consent of the owner, in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate or warrant or order for delivery, or other document showing title to goods, he may transfer the ownership of the goods of which he is so in possession, or to which such documents relate, to any other person, and give such person a good title thereto, notwithstanding any instructions of the owner to the contrary: Provided that the buyer acts in good faith

faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods or documents has no right to sell the goods.

EXCEPTION 2.—If one of several joint-owners of goods has the sole possession of them by the permission of the co-owners, the ownership of the goods is transferred to any person who buys them of such joint-owner in good faith, and under circumstances which are not such as to raise a reasonable presumption that the person in possession of the goods has no right to sell them.

EXCEPTION 3.—When a person has obtained possession of goods under a contract voidable at the option of the other party thereto, the ownership of the goods is transferred to a third person who, before the contract is rescinded, buys them in good faith of the person in possession ; unless the circumstances which render the contract voidable amounted to an offence committed by the person in possession or those whom he represents.

In this case the original seller is entitled to compensation from the original purchaser for any loss which the seller may have sustained by being prevented from rescinding the contract.

Illustrations.

(*a.*) A buys from B, in good faith, a cow which B had stolen from C. The property in the cow is not transferred to A.

(*b.*) A, a merchant, entrusts B, his agent, with a bill of lading relating to certain goods, and instructs B not to sell the goods for less than a certain price, and not to give credit to D. B sells the goods to D for less than that price, and gives D three months' credit. The property in the goods passes to D.

(*c.*) A sells to B goods of which he has the bill of lading, but the bill of lading is made out for delivery of the goods to C, and it has not been endorsed by C. The property is not transferred to B.

(*d.*) A, B and C are joint Hindú brothers, who own certain cattle in common. A is left by B and C in possession of a cow, which he sells to D. D purchases *bonâ fide*. The property in the cow is transferred to D.

(*e.*) A,

(*e.*) A, by a misrepresentation not amounting to cheating, induces B to sell and deliver to him a horse. A sells the horse to C before B has rescinded the contract. The property in the horse is transferred to C; and B is entitled to compensation from A for any loss which B has sustained by being prevented from rescinding the contract.

(*f.*) A compels B by wrongful intimidation, or induces him by cheating or forgery, to sell him a horse, and, before B rescinds the contract, sells the horse to C. The property is not transferred to C.

WARRANTY.

Seller's responsibility for badness of title.

109. If the buyer, or any person claiming under him, is, by reason of the invalidity of the seller's title, deprived of the thing sold, the seller is responsible to the buyer, or the person claiming under him, for loss caused thereby, unless a contrary intention appears by the contract.

Establishment of implied warranty of goodness or quality.

110. An implied warranty of goodness or quality may be established by the custom of any particular trade.

Warranty of soundness implied on sale of provisions.

111. On the sale of provisions, there is an implied warranty that they are sound.

Warranty of bulk implied on sale of goods by sample.

112. On the sale of goods by sample, there is an implied warranty that the bulk is equal in quality to the sample.

Warranty implied where goods are sold as being of a certain denomination.

113. Where goods are sold as being of a certain denomination, there is an implied warranty that they are such goods as are commercially known by that denomination, although the buyer may have bought them by sample, or after inspection of the bulk.

Explanation.—But if the contract specifically states that the goods, though sold as of a certain denomination, are not warranted to be of that denomination, there is no implied warranty.

Illustrations.

(*a.*) A, at Calcutta, sells to B twelve bags of "waste silk," then on its way from Murshedábád to Calcutta. There is an implied warranty by A that the silk shall be such as is known in the market under the denomination of "waste silk."

(*b.*) A

(*b.*) A buys, by sample and after having inspected the bulk, 100 bales of "Fair Bengal" cotton. The cotton proves not to be such as is known in the market as "Fair Bengal": there is a breach of warranty.

Warranty where goods ordered for a specified purpose.

114. Where goods have been ordered for a specified purpose, for which goods of the denomination mentioned in the order are usually sold, there is an implied warranty by the seller that the goods supplied are fit for that purpose.

Illustration.

B orders of A, a copper manufacturer, copper for sheathing a vessel. A, on this order, supplies copper. There is an implied warranty that the copper is fit for sheathing a vessel.

Warranty on sale of article of well-known ascertained kind.

115. Upon the sale of an article of a well-known ascertained kind, there is no implied warranty of its fitness for any particular purpose.

Illustration.

B writes to A, the owner of a patent invention for cleaning cotton—"Send me your patent cotton-cleaning machine to clean the cotton at my factory." A sends the machine according to order. There is an implied warranty by A that it is the article known as A's patent cotton-cleaning machine, but none that it is fit for the particular purpose of cleaning the cotton at B's factory.

Seller when not responsible for latent defects.

116. In the absence of fraud and of any express warranty of quality, the seller of an article which answers the description under which it was sold is not responsible for a latent defect in it.

Illustration.

A sells to B a horse. It turns out that the horse had, at the time of the sale, a defect of which A was unaware. A is not responsible for this.

Buyer's right on breach of warranty.

117. Where a specific article, sold with a warranty, has been delivered and accepted, and the warranty is broken, the sale is not thereby rendered voidable; but the buyer is entitled to compensation from the seller for loss caused by the breach of warranty.

Illustration.

A sells and delivers to B a horse warranted sound. The horse proves to have been unsound at the time of sale. The sale is not thereby rendered voidable, but B is entitled to compensation from A for loss caused by the unsoundness.

118. Where

Right of buyer on breach of warranty in respect of goods not ascertained.

118. Where there has been a contract, with a warranty, for the sale of goods which, at the time of the contract, were not ascertained or not in existence, and the warranty is broken, the buyer may

accept the goods or refuse to accept the goods when tendered,

or keep the goods for a time reasonably sufficient for examining and trying them, and then refuse to accept them; provided that, during such time, he exercises no other act of ownership over them than is necessary for the purpose of examination and trial.

In any case the buyer is entitled to compensation from the seller for any loss caused by the breach of warranty; but if he accepts the goods and intends to claim compensation, he must give notice of his intention to do so within a reasonable time after discovering the breach of the warranty.

Illustrations.

(*a.*) A agrees to sell and, without application on B's part, deliver to B 200 bales of unascertained cotton by sample. Cotton not in accordance with sample is delivered to B. B may return it if he has not kept it longer than a reasonable time for the purpose of examination.

(*b.*) B agrees to buy of A twenty-five sacks of flour by sample. The flour is delivered to B, who pays the price. B, upon examination, finds it not equal to sample; B afterwards uses two sacks, and sells one. He cannot now rescind the contract and recover the price, but he is entitled to compensation from A for any loss caused by the breach of warranty.

(*c.*) B makes two pairs of shoes for A by A's order. When the shoes are delivered, they do not fit A. A keeps both pairs for a day. He wears one pair for a short time in the house, and takes a long walk out of doors in the other pair. He may refuse to accept the first pair, but not the second. But he may recover compensation for any loss sustained by the defect of the second pair.

MISCELLANEOUS.

When buyer may refuse to accept, if goods not ordered are sent with goods ordered.

119. When the seller sends to the buyer goods not ordered with goods ordered, the buyer may refuse to accept any of the goods so sent, if there is risk or trouble in separating the goods ordered from the goods not ordered.

Illustration.

Illustration.

A orders of B specific articles of china. B sends these articles to A in a hamper, with other articles of china which had not been ordered. A may refuse to accept any of the goods sent.

120. If a buyer wrongfully refuses to accept the goods sold to him, this amounts to a breach of the contract of sale.

Effect of wrongful refusal to accept.

121. When goods sold have been delivered to the buyer, the seller is not entitled to rescind the contract on the buyer's failing to pay the price at the time fixed, unless it was stipulated by the contract that he should be so entitled.

Right of seller as to rescission, on failure of buyer to pay price at time fixed.

122. Where goods are sold by auction, there is a distinct and separate sale of the goods in each lot, by which the ownership thereof is transferred as each lot is knocked down.

Sale and transfer of lots sold by auction.

123. If, at a sale by auction, the seller makes use of pretended biddings to raise the price, the sale is voidable at the option of the buyer.

Effect of use, by seller, of pretended biddings to raise price.

CHAPTER VIII.

Of Indemnity and Guarantee.

124. A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person, is called a 'contract of indemnity.'

'Contract of indemnity' defined.

Illustration.

A contracts to indemnify B against the consequences of any proceedings which C may take against B in respect of a certain sum of 200 rupees. This is a contract of indemnity.

125. The promisee in a contract of indemnity, acting within the scope of his authority, is entitled to recover from the promisor—

Rights and liabilities of indemnity-holder, when sued.

(1) all damages which he may be compelled to pay in any suit in respect of any matter to which the promise to indemnify applies;

(2) all costs which he may be compelled to pay in any such suit if, in bringing or defending it, he did

did not contravene the orders of the promisor, and acted as it would have been prudent for him to act in the absence of any contract of indemnity, or if the promisor authorized him to bring or defend the suit;

(3) all sums which he may have paid under the terms of any compromise of any such suit, if the compromise was not contrary to the orders of the promisor, and was one which it would have been prudent for the promisee to make in the absence of any contract of indemnity, or if the promisor authorized him to compromise the suit.

'Contract of guarantee,' 'surety,' 'principal debtor,' and 'creditor.'

126. A 'contract of guarantee' is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the 'surety'; the person in respect of whose default the guarantee is given is called the 'principal debtor,' and the person to whom the guarantee is given is called the 'creditor.' A guarantee may be either oral or written.

Consideration for guarantee.

127. Anything done, or any promise made, for the benefit of the principal debtor, may be a sufficient consideration to the surety for giving the guarantee.

Illustrations.

(*a*.) B requests A to sell and deliver to him goods on credit. A agrees to do so, provided C will guarantee the payment of the price of the goods. C promises to guarantee the payment in consideration of A's promise to deliver the goods. This is a sufficient consideration for C's promise.

(*b*.) A sells and delivers goods to B. C afterwards requests A to forbear to sue B for the debt for a year, and promises that, if he does so, C will pay for them in default of payment by B. A agrees to forbear as requested. This is a sufficient consideration for C's promise.

(*c*.) A sells and delivers goods to B. C afterwards, without consideration, agrees to pay for them in default of B. The agreement is void.

Surety's liability.

128. The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

Illustration.

A guarantees to B the payment of a bill of exchange by C, the acceptor. The bill is dishonoured by C. A is liable, not

not only for the amount of the bill, but also for any interest and charges which may have become due on it.

129. A guarantee which extends to a series of transactions, is called a 'continuing guarantee.' 'Continuing guarantee.'

Illustrations.

(*a.*) A, in consideration that B will employ C in collecting the rents of B's zamíndári, promises B to be responsible, to the amount of 5,000 rupees, for the due collection and payment by C of those rents. This is a continuing guarantee.

(*b.*) A guarantees payment to B, a tea-dealer, to the amount of £100, for any tea he may from time to time supply to C. B supplies C with tea to above the value of £100, and C pays B for it. Afterwards, B supplies C with tea to the value of £200. C fails to pay. The guarantee given by A was a continuing guarantee, and he is accordingly liable to B to the extent of £100.

(*c.*) A guarantees payment to B of the price of five sacks of flour to be delivered by B to C and to be paid for in a month. B delivers five sacks to C. C pays for them. Afterwards B delivers four sacks to C, which C does not pay for. The guarantee given by A was not a continuing guarantee, and accordingly he is not liable for the price of the four sacks.

130. A continuing guarantee may at any time be revoked by the surety, as to future transactions, by notice to the creditor. Revocation of continuing guarantee.

Illustrations.

(*a.*) A, in consideration of B's discounting, at A's request, bills of exchange for C, guarantees to B, for twelve months, the due payment of all such bills to the extent of 5,000 rupees. B discounts bills for C to the extent of 2,000 rupees. Afterwards, at the end of three months, A revokes the guarantee. This revocation discharges A from all liability to B for any subsequent discount. But A is liable to B for the 2,000 rupees, on default of C.

(*b.*) A guarantees to B, to the extent of 10,000 rupees, that C shall pay all the bills that B shall draw upon him. B draws upon C. C accepts the bill. A gives notice of revocation. C dishonours the bill at maturity. A is liable upon his guarantee.

131. The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions. Revocation of continuing guarantee by surety's death.

132. Where

BENGAL SECRETARIAT LIBRARY.

Liability of two persons, primarily liable, not affected by private arrangemnet between them as to suretyship.

132. Where two persons contract with a third person to undertake a certain liability, and also contract with each other that one of them shall be liable only on the default of the other, the third person not being a party to such contract, the liability of each of such two persons to the third person under the first contract is not affected by the existence of the second contract, although such third person may have been aware of its existence.

Illustration.

A and B make a joint and several promissory note to C. A makes it, in fact, as surety for B, and C knows this at the time when the note is made. The fact that A, to the knowledge of C, made the note as surety for B, is no answer to a suit by C against A upon the note.

Discharge of surety by variance in terms of contract.

133. Any variance, made without the surety's consent, in the terms of the contract between the principal and the creditor, discharges the surety as to transactions subsequent to the variance.

Illustrations.

(*a.*) A becomes surety to C for B's conduct as a manager in C's bank. Afterwards, B and C contract, without A's consent, that B's salary shall be raised, and that he shall become liable for one-fourth of the losses on overdrafts. B allows a customer to overdraw, and the bank loses a sum of money. A is discharged from his suretyship by the variance made without his consent, and is not liable to make good this loss.

(*b.*) A guarantees C against the misconduct of B in an office to which B is appointed by C, and of which the duties are defined by an Act of the legislature. By a subsequent Act, the nature of the office is materially altered. Afterwards, B misconducts himself. A is discharged by the change from future liability under his guarantee, though the misconduct of B is in respect of a duty not affected by the later Act.

(*c.*) C agrees to appoint B as his clerk to sell goods at a yearly salary, upon A's becoming surety to C for B's duly accounting for moneys received by him as such clerk. Afterwards, without A's knowledge or consent, C and B agree that B should be paid by a commission on the goods sold by him and not by a fixed salary. A is not liable for subsequent misconduct of B.

(*d.*) A gives to C a continuing guarantee to the extent of 3,000 rupees for any oil supplied by C to B on credit. Afterwards B becomes embarrassed, and, without the knowledge of A, B and C contract that C shall continue to supply B with oil for

for ready money, and that the payments shall be applied to the then existing debts between B and C. A is not liable on his guarantee for any goods supplied after this new arrangement.

(*e.*) C contracts to lend B 5,000 rupees on the first March. A guarantees repayment. C pays the 5,000 rupees to B on the first January. A is discharged from his liability, as the contract has been varied, inasmuch as C might sue B for the money before the first of March.

Discharge of surety by release or discharge of principal debtor.

134. The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

Illustrations.

(*a.*) A gives a guarantee to C for goods to be supplied by C to B. C supplies goods to B, and afterwards B becomes embarrassed and contracts with his creditors (including C) to assign to them his property in consideration of their releasing him from their demands. Here B is released from his debt by the contract with C, and A is discharged from his suretyship.

(*b.*) A contracts with B to grow a crop of indigo on A's land and to deliver it to B at a fixed rate, and C guarantees A's performance of this contract. B diverts a stream of water which is necessary for the irrigation of A's land, and thereby prevents him from raising the indigo. C is no longer liable on his guarantee.

(*c.*) A contracts with B for a fixed price to build a house for B within a stipulated time, B supplying the necessary timber C guarantees A's performance of the contract. B omits to supply the timber. C is discharged from his suretyship.

Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor.

135. A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

Surety not discharged when agreement made with third person to give time to principal debtor.

136. Where a contract to give time to the principal debtor is made by the creditor with a third person, and not with the principal debtor, the surety is not discharged.

Illustration.

C, the holder of an overdue bill of exchange drawn by A as surety for B, and accepted by B, contracts with M to give time to B. A is not discharged.

137. Mere

Creditor's forbearance to sue does not discharge surety.

137. Mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him, does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

Illustration.

B owes to C a debt guaranteed by A. The debt becomes payable. C does not sue B for a year after the debt has become payable. A is not discharged from his suretyship.

Release of one co-surety does not discharge others.

138. Where there are co-sureties, a release by the creditor of one of them does not discharge the others; neither does it free the surety so released from his responsibility to the other sureties.

Discharge of surety by creditor's act or omission impairing surety's eventual remedy.

139. If the creditor does any act which is inconsistent with the rights of the surety, or omits to do any act which his duty to the surety requires him to do, and the eventual remedy of the surety himself against the principal debtor is thereby impaired, the surety is discharged.

Illustrations.

(*a.*) B contracts to build a ship for C for a given sum, to be paid by instalments as the work reaches certain stages. A becomes surety to C for B's due performance of the contract. C, without the knowledge of A, prepays to B the last two instalments. A is discharged by this prepayment.

(*b.*) C lends money to B on the security of a joint and several promissory note made in C's favour by B, and by A as surety for B, together with a bill of sale of B's furniture, which gives power to C to sell the furniture, and apply the proceeds in discharge of the note. Subsequently, C sells the furniture, but, owing to his misconduct and wilful negligence, only a small price is realized. A is discharged from liability on the note.

(*c.*) A puts M as apprentice to B, and gives a guarantee to B for M's fidelity. B promises on his part that he will, at least once a month, see M make up the cash. B omits to see this done as promised, and M embezzles. A is not liable to B on his guarantee.

Rights of surety on payment or performance

140. Where a guaranteed debt has become due, or default of the principal debtor to perform a guaranteed duty has taken place, the surety, upon payment or performance of all that he is liable for, is invested with all the rights which the creditor had against the principal debtor.

141. A

141. A surety is entitled to the benefit of every security which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

Surety's right to benefit of creditor's securities.

Illustrations.

(*a.*) C advances to B, his tenant, 2,000 rupees on the guarantee of A. C has also a further security for the 2,000 rupees by a mortgage of B's furniture. C cancels the mortgage. B becomes insolvent, and C sues A on his guarantee. A is discharged from liability to the amount of the value of the furniture.

(*b.*) C, a creditor, whose advance to B is secured by a decree, receives also a guarantee for that advance from A. C afterwards takes B's goods in execution under the decree, and then, without the knowledge of A, withdraws the execution. A is discharged.

(*c.*) A, as surety for B, makes a bond jointly with B to C, to secure a loan from C to B. Afterwards, C obtains from B a further security for the same debt. Subsequently, C gives up the further security. A is not discharged.

142. Any guarantee which has been obtained by means of misrepresentation made by the creditor, or with his knowledge and assent, concerning a material part of the transaction, is invalid.

Guarantee obtained by misrepresentation, invalid.

143. Any guarantee which the creditor has obtained by means of keeping silence as to a material circumstance, is invalid.

Guarantee obtained by concealment, invalid.

Illustrations.

(*a.*) A engages B as clerk to collect money for him. B fails to account for some of his receipts, and A in consequence calls upon him to furnish security for his duly accounting. C gives his guarantee for B's duly accounting. A does not acquaint C with B's previous conduct. B afterwards makes default. The guarantee is invalid.

(*b.*) A guarantees to C payment for iron to be supplied by him to B to the amount of 2,000 tons. B and C have privately agreed that B should pay five rupees per ton beyond the market price, such excess to be applied in liquidation of an old debt. This agreement is concealed from A. A is not liable as a surety.

144. Where

Guarantee on agreement that creditor shall not act on it until co-surety joins.

144. Where a person gives a guarantee upon a contract that the creditor shall not act upon it until another person has joined in it as co-surety, the guarantee is not valid if that other person does not join.

Implied promise to indemnify surety.

145. In every contract of guarantee there is an implied promise by the principal debtor to indemnify the surety; and the surety is entitled to recover from the principal debtor whatever sum he has rightfully paid under the guarantee, but no sums which he has paid wrongfully.

Illustrations.

(*a.*) B is indebted to C, and A is surety for the debt. C demands payment from A, and on his refusal sues him for the amount. A defends the suit, having reasonable grounds for doing so, but he is compelled to pay the amount of the debt with costs. He can recover from B the amount paid by him for costs, as well as the principal debt.

(*b.*) C lends B a sum of money, and A, at the request of B, accepts a bill of exchange drawn by B upon A to secure the amount. C, the holder of the bill, demands payment of it from A, and, on A's refusal to pay, sues him upon the bill. A, not having reasonable grounds for so doing, defends the suit, and has to pay the amount of the bill and costs. He can recover from B the amount of the bill, but not the sum paid for costs, as there was no real ground for defending the action.

(*c.*) A guarantees to C, to the extent of 2,000 rupees, payment for rice to be supplied by C to B. C supplies to B rice to a less amount than 2,000 rupees, but obtains from A payment of the sum of 2,000 rupees in respect of the rice supplied. A cannot recover from B more than the price of the rice actually supplied.

Co-sureties liable to contribute equally.

146. Where two or more persons are co-sureties for the same debt or duty, either jointly or severally, and whether under the same or different contracts, and whether with or without the knowledge of each other, the co-sureties, in the absence of any contract to the contrary, are liable, as between themselves, to pay each an equal share of the whole debt, or of that part of it which remains unpaid by the principal debtor.

Illustrations.

(*a.*) A, B and C are sureties to D for the sum of 3,000 rupees lent to E. E makes default in payment. A, B and C are liable, as between themselves, to pay 1,000 rupees each.

(*b.*) A

(*b.*) A, B and C are sureties to D for the sum of 1,000 rupees lent to E, and there is a contract between A, B and C that A is to be responsible to the extent of one-quarter, B to the extent of one-quarter, and C to the extent of one-half. E makes default in payment. As between the sureties, A is liable to pay 250 rupees, B 250 rupees, and C 500 rupees.

Liability of co-sureties bound in different sums.

147. Co-sureties who are bound in different sums are liable to pay equally as far as the limits of their respective obligations permit.

Illustrations.

(*a.*) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 30,000 rupees. A, B and C are each liable to pay 10,000 rupees.

(*b.*) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 40,000 rupees. A is liable to pay 10,000 rupees, and B and C 15,000 rupees each.

(*c*) A, B and C, as sureties for D, enter into three several bonds, each in a different penalty, namely, A in the penalty of 10,000 rupees, B in that of 20,000 rupees, C in that of 40,000 rupees, conditioned for D's duly accounting to E. D makes default to the extent of 70,000 rupees. A, B and C have to pay each the full penalty of his bond.

CHAPTER IX.

Of Bailment.

'Bailment,' 'bailor,' and 'bailee' defined.

148. A 'bailment' is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the 'bailor'. The person to whom they are delivered is called the 'bailee'.

Explanation.—If a person already in possession of the goods of another contracts to hold them as a bailee, he thereby becomes the bailee, and the owner becomes the bailor of such goods, although they may not have been delivered by way of bailment.

149. The

Delivery to bailee how made.

149. The delivery to the bailee may be made by doing anything which has the effect of putting the goods in the possession of the intended bailee or of any person authorized to hold them on his behalf.

Bailor's duty to disclose faults in goods bailed.

150. The bailor is bound to disclose to the bailee faults in the goods bailed, of which the bailor is aware, and which materially interfere with the use of them, or expose the bailee to extraordinary risks; and if he does not make such disclosure, he is responsible for damage arising to the bailee directly from such faults.

If the goods are bailed for hire, the bailor is responsible for such damage, whether he was or was not aware of the existence of such faults in the goods bailed.

Illustrations.

(*a.*) A lends a horse, which he knows to be vicious, to B. He does not disclose the fact that the horse is vicious. The horse runs away. B is thrown and injured. A is responsible to B for damage sustained.

(*b.*) A hires a carriage of B. The carriage is unsafe, though B is not aware of it, and A is injured. B is responsible to A for the injury.

Care to be taken by bailee.

151. In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed.

Bailee when not liable for loss, &c., of thing bailed.

152. The bailee, in the absence of any special contract, is not responsible for the loss, destruction or deterioration of the thing bailed, if he has taken the amount of care of it described in section 151.

Termination of bailment by bailee's act inconsistent with conditions.

153. A contract of bailment is voidable at the option of the bailor, if the bailee does any act with regard to the goods bailed, inconsistent with the conditions of the bailment.

Illustration.

A lets to B, for hire, a horse for his own riding. B drives the horse in his carriage. This is, at the option of A, a termination of the bailment.

154. If

154. If the bailee makes any use of the goods bailed which is not according to the conditions of the bailment, he is liable to make compensation to the bailor for any damage arising to the goods from or during such use of them.

Liability of bailee making unauthorized use of goods bailed.

Illustrations.

(*a.*) A lends a horse to B for his own riding only. B allows C, a member of his family, to ride the horse. C rides with care, but the horse accidentally falls and is injured. B is liable to make compensation to A for the injury done to the horse.

(*b.*) A hires a horse in Calcutta from B expressly to march to Benares. A rides with due care, but marches to Cuttack instead. The horse accidentally falls and is injured. A is liable to make compensation to B for the injury to the horse.

155. If the bailee, with the consent of the bailor, mixes the goods of the bailor with his own goods, the bailor and the bailee shall have an interest, in proportion to their respective shares, in the mixture thus produced.

Effect of mixture, with bailor's consent, of his goods with goods of bailee.

156. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, and the goods can be separated or divided, the property in the goods remains in the parties respectively; but the bailee is bound to bear the expense of separation or division, and any damage arising from the mixture.

Effect of mixture, without bailor's consent, when the goods can be separated.

Illustration.

A bails 100 bales of cotton marked with a particular mark to B. B, without A's consent, mixes the 100 bales with other bales of his own, bearing a different mark: A is entitled to have his 100 bales returned, and B is bound to bear all the expense incurred in the separation of the bales, and any other incidental damage.

157. If the bailee, without the consent of the bailor, mixes the goods of the bailor with his own goods, in such a manner that it is impossible to separate the goods bailed from the other goods, and deliver them back, the bailor is entitled to be compensated by the bailee for the loss of the goods.

Effect of mixture, without bailor's consent, when the goods cannot be separated.

Illustration.

A bails a barrel of Cape flour worth Rs. 45 to B. B, without A's consent, mixes the flour with country flour of his own, worth only Rs. 25 a barrel. B must compensate A for the loss of his flour.

158. Where

Repayment, by bailor, of necessary expenses.

158. Where, by the conditions of the bailment, the goods are to be kept or to be carried, or to have work done upon them by the bailee for the bailor, and the bailee is to receive no remuneration, the bailor shall repay to the bailee the necessary expenses incurred by him for the purpose of the bailment.

Restoration of goods bailed gratuitously.

159. The lender of a thing for use may at any time require its return, if the loan was gratuitous, even though he lent it for a specified time or purpose. But if, on the faith of such loan made for a specified time or purpose, the borrower has acted in such a manner that the return of the thing lent before the time agreed upon would cause him loss exceeding the benefit actually derived by him from the loan, the lender must, if he compels the return, indemnify the borrower for the amount in which the loss so occasioned exceeds the benefit so derived.

Return of goods bailed, on expiration of time or accomplishment of purpose.

160. It is the duty of the bailee to return, or deliver according to the bailor's directions, the goods bailed, without demand, as soon as the time for which they were bailed has expired, or the purpose for which they were bailed has been accomplished.

Bailee's responsibility when goods are not duly delivered or tendered.

161. If, by the fault of the bailee, the goods are not returned, delivered or tendered at the proper time, he is responsible to the bailor for any loss, destruction or deterioration of the goods from that time.

Termination of gratuitous bailment by death.

162. A gratuitous bailment is terminated by the death either of the bailor or of the bailee.

Bailor entitled to increase or profit from goods bailed.

163. In the absence of any contract to the contrary, the bailee is bound to deliver to the bailor, or according to his directions, any increase or profit which may have accrued from the goods bailed.

Illustration.

A leaves a cow in the custody of B to be taken care of. The cow has a calf. B is bound to deliver the calf as well as the cow to A.

Bailor's responsibility to bailee.

164. The bailor is responsible to the bailee for any loss which the bailee may sustain by reason that the bailor was not entitled to make the bailment, or to receive

receive back the goods, or to give directions respecting them.

165. If several joint owners of goods bail them, the bailee may deliver them back to, or according to the directions of, one joint owner without the consent of all, in the absence of any agreement to the contrary.

Bailment by several joint owners.

166. If the bailor has no title to the goods, and the bailee, in good faith, delivers them back to, or according to the directions of, the bailor, the bailee is not responsible to the owner in respect of such delivery.

Bailee not responsible on re-delivery to bailor without title.

167. If a person, other than the bailor, claims goods bailed, he may apply to the Court to stop the delivery of the goods to the bailor, and to decide the title to the goods.

Right of third person claiming goods bailed.

168. The finder of goods has no right to sue the owner for compensation for trouble and expense voluntarily incurred by him to preserve the goods and to find out the owner; but he may retain the goods against the owner until he receives such compensation; and where the owner has offered a specific reward for the return of goods lost, the finder may sue for such reward, and may retain the goods until he receives it.

Right of finder of goods.

May sue for specific reward offered.

169. When a thing which is commonly the subject of sale is lost, if the owner cannot with reasonable diligence be found, or if he refuses, upon demand, to pay the lawful charges of the finder, the finder may sell it—

When finder of thing commonly on sale may sell it.

(1) when the thing is in danger of perishing or of losing the greater part of its value, or,

(2) when the lawful charges of the finder, in respect of the thing found, amount to two-thirds of its value.

170. Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.

Bailee's particular lien.

Illustrations.

Illustrations.

(*a.*) A delivers a rough diamond to B, a jeweller, to be cut and polished, which is accordingly done. B is entitled to retain the stone till he is paid for the services he has rendered.

(*b.*) A gives cloth to B, a tailor, to make into a coat. B promises A to deliver the coat as soon as it is finished, and to give A three months' credit for the price. B is not entitled to retain the coat until he is paid.

General lien of bankers, factors, wharfingers, attorneys and policy-brokers.

171. Bankers, factors, wharfingers, attorneys of a High Court and policy-brokers may, in the absence of a contract to the contrary, retain as a security for a general balance of account, any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to that effect.

BAILMENTS OF PLEDGES.

'Pledge,' 'pawnor,' and 'pawnee' defined.

172. The bailment of goods as security for payment of a debt or performance of a promise is called 'pledge.' The bailor is in this case called the 'pawnor.' The bailee is called the 'pawnee.'

Pawnee's right of retainer.

173. The pawnee may retain the goods pledged, not only for payment of the debt or the performance of the promise, but for the interest of the debt, and all necessary expenses incurred by him in respect of the possession or for the preservation of the goods pledged.

Pawnee not to retain for debt or promise other than that for which goods pledged. Presumption in case of subsequent advances.

174. The pawnee shall not, in the absence of a contract to that effect, retain the goods pledged for any debt or promise other than the debt or promise for which they are pledged; but such contract, in the absence of anything to the contrary, shall be presumed in regard to subsequent advances made by the pawnee.

Pawnee's right as to extraordinary expenses incurred.

175. The pawnee is entitled to receive from the pawnor extraordinary expenses incurred by him for the preservation of the goods pledged.

Pawnee's right where pawnor makes default.

176. If the pawnor makes default in payment of the debt, or performance, at the stipulated time, of the promise, in respect of which the goods were pledged, the

the pawnee may bring a suit against the pawnor upon the debt or promise, and retain the goods pledged as a collateral security; or he may sell the thing pledged, on giving the pawnor reasonable notice of the sale.

If the proceeds of such sale are less than the amount due in respect of the debt or promise, the pawnor is still liable to pay the balance. If the proceeds of the sale are greater than the amount so due, the pawnee shall pay over the surplus to the pawnor.

Defaulting pawnor's right to redeem.

177. If a time is stipulated for the payment of the debt, or performance of the promise, for which the pledge is made, and the pawnor makes default in payment of the debt or performance of the promise at the stipulated time, he may redeem the goods pledged at any subsequent time before the actual sale of them; but he must, in that case, pay, in addition, any expenses which have arisen from his default.

Pledge by possessor of goods, or of documentary title to goods.

178. A person who is in possession of any goods, or of any bill of lading, dock-warrant, warehouse-keeper's certificate, wharfinger's certificate, or warrant or order for delivery, or any other document of title to goods, may make a valid pledge of such goods, or documents: Provided that the pawnee acts in good faith, and under circumstances which are not such as to raise a reasonable presumption that the pawnor is acting improperly:

Provided also that such goods or documents have not been obtained from their lawful owner, or from any person in lawful custody of them, by means of an offence or fraud.

Pledge where pledgor has only a limited interest.

179. Where a person pledges goods in which he has only a limited interest, the pledge is valid to the extent of that interest.

Suits by Bailees or Bailors against Wrong-doers.

Suit by bailor or bailee against wrong-doer.

180. If a third person wrongfully deprives the bailee of the use or possession of the goods bailed, or does them any injury, the bailee is entitled to use such remedies as the owner might have used in the like case if no bailment had been made; and either the

the bailor or the bailee may bring a suit against a third person for such deprivation or injury.

Apportionment of relief or compensation obtained by such suits.

181. Whatever is obtained by way of relief or compensation in any such suit shall, as between the bailor and the bailee, be dealt with according to their respective interests.

CHAPTER X.

AGENCY.

APPOINTMENT AND AUTHORITY OF AGENTS.

'Agent' and 'principal' defined.

182. An 'agent' is a person employed to do any act for another, or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the 'principal.'

Who may employ agent.

183. Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.

Who may be an agent.

184. As between the principal and third persons, any person may become an agent; but no person who is not of the age of majority and of sound mind can become an agent, so as to be responsible to his principal according to the provisions in that behalf herein contained.

Consideration not necessary.

185. No consideration is necessary to create an agency.

Agent's authority may be expressed or implied.

186. The authority of an agent may be expressed or implied.

Definitions of express and implied authority.

187. An authority is said to be express when it is given by words spoken or written. An authority is said to be implied when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.

Illustration.

A owns a shop in Serampur, living himself in Calcutta, and visiting the shop occasionally. The shop is managed by B, and he is in the habit of ordering goods from C in the name of A for the purposes of the shop, and of paying for them out

out of A's funds with A's knowledge. B has an implied authority from A to order goods from C in the name of A for the purposes of the shop.

188. An agent, having an authority to do an act, has authority to do every lawful thing which is necessary in order to do such act. Extent of agent's authority.

An agent having an authority to carry on a business, has authority to do every lawful thing necessary for the purpose, or usually done in the course, of conducting such business.

Illustrations.

(*a.*) A is employed by B, residing in London, to recover at Bombay a debt due to B. A may adopt any legal process necessary for the purpose of recovering the debt, and may give a valid discharge for the same.

(*b.*) A constitutes B his agent to carry on his business of a ship-builder. B may purchase timber and other materials, and hire workmen, for the purpose of carrying on the business.

189. An agent has authority, in an emergency, to do all such acts for the purpose of protecting his principal from loss as would be done by a person of ordinary prudence, in his own case, under similar circumstances. Agent's authority in an emergency.

Illustrations.

(*a.*) An agent for sale may have goods repaired if it be necessary.

(*b.*) A consigns provisions to B at Calcutta, with directions to send them immediately to C, at Cuttack. B may sell the provisions at Calcutta, if they will not bear the journey to Cuttack without spoiling.

SUB-AGENTS.

190. An agent cannot lawfully employ another to perform acts which he has expressly or impliedly undertaken to perform personally, unless by the ordinary custom of trade a sub-agent may, or, from the nature of the agency, a sub-agent must, be employed. When agent cannot delegate.

191. A 'sub-agent' is a person employed by, and acting under the control of, the original agent in the business of the agency. 'Sub-agent' defined.

192. Where

Representation of principal by sub-agent properly appointed.

192. Where a sub-agent is properly appointed, the principal is, so far as regards third persons, represented by the sub-agent, and is bound by and responsible for his acts, as if he were an agent originally appointed by the principal.

Agent's responsibility for sub-agent.

The agent is responsible to the principal for the acts of the sub-agent:

Sub-agent's responsibility.

The sub-agent is responsible for his acts to the agent, but not to the principal, except in cases of fraud or wilful wrong.

Agent's responsibility for sub-agent appointed without authority.

193. Where an agent, without having authority to do so, has appointed a person to act as a sub-agent, the agent stands towards such person in the relation of a principal to an agent, and is responsible for his acts both to the principal and to third persons; the principal is not represented by or responsible for the acts of the person so employed, nor is that person responsible to the principal.

Relation between principal and person duly appointed by agent to act in business of agency.

194. Where an agent, holding an express or implied authority to name another person to act for the principal in the business of the agency, has named another person accordingly, such person is not a sub-agent, but an agent of the principal for such part of the business of the agency as is entrusted to him.

Illustrations.

(*a.*) A directs B, his solicitor, to sell his estate by auction, and to employ an auctioneer for the purpose. B names C, an auctioneer, to conduct the sale. C is not a sub-agent, but is A's agent for the conduct of the sale.

(*b.*) A authorizes B, a merchant in Calcutta, to recover the monies due to A from C & Co. B instructs D, a solicitor, to take legal proceedings against C & Co. for the recovery of the money. D is not a sub-agent, but is solicitor for A.

Agent's duty in naming such person.

195. In selecting such agent for his principal, an agent is bound to exercise the same amount of discretion as a man of ordinary prudence would exercise in his own case; and, if he does this, he is not responsible to the principal for the acts or negligence of the agent so selected.

Illustrations.

Illustrations.

(*a.*) A instructs B, a merchant, to buy a ship for him. B employs a ship-surveyor of good reputation to choose a ship for A. The surveyor makes the choice negligently and the ship turns out to be unseaworthy and is lost. B is not, but the surveyor is, responsible to A.

(*b.*) A consigns goods to B, a merchant, for sale. B, in due course, employs an auctioneer in good credit to sell the goods of A, and allows the auctioneer to receive the proceeds of the sale. The auctioneer afterwards becomes insolvent without having accounted for the proceeds. B is not responsible to A for the proceeds.

RATIFICATION.

Right of person as to acts done for him without his authority. Effect of ratification.

196. Where acts are done by one person on behalf of another, but without his knowledge or authority, he may elect to ratify or to disown such acts. If he ratify them, the same effects will follow as if they had been performed by his authority.

Ratification may be expressed or implied.

197. Ratification may be expressed or may be implied in the conduct of the person on whose behalf the acts are done.

Illustrations.

(*a.*) A, without authority, buys goods for B. Afterwards B sells them to C on his own account; B's conduct implies a ratification of the purchase made for him by A.

(*b.*) A, without B's authority, lends B's money to C. Afterwards B accepts interest on the money from C. B's conduct implies a ratification of the loan.

Knowledge requisite to valid ratification.

198. No valid ratification can be made by a person whose knowledge of the facts of the case is materially defective.

Effect of ratifying unauthorized act forming part of a transaction.

199. A person ratifying any unauthorized act done on his behalf ratifies the whole of the transaction of which such act formed a part.

Ratification of unauthorized act cannot injure third person.

200. An act done by one person on behalf of another, without such other person's authority, which, if done with authority, would have the effect of subjecting a third person to damages, or of terminating any right or interest of a third person, cannot, by ratification, be made to have such effect.

Illustrations.

Illustrations.

(*a.*) A, not being authorized thereto by B, demands, on behalf of B, the delivery of a chattel, the property of B, from C who is in possession of it. This demand cannot be ratified by B, so as to make C liable for damages for his refusal to deliver.

(*b.*) A holds a lease from B, terminable on three months' notice. C, an unauthorized person, gives notice of termination to A. The notice cannot be ratified by B, so as to be binding on A.

REVOCATION OF AUTHORITY.

Termination of agency.

201. An agency is terminated by the principal revoking his authority; or by the agent renouncing the business of the agency; or by the business of the agency being completed; or by either the principal or agent dying or becoming of unsound mind; or by the principal being adjudicated an insolvent under the provisions of any Act for the time being in force for the relief of insolvent debtors.

Termination of agency, where agent has an interest in subject-matter.

202. Where the agent has himself an interest in the property which forms the subject-matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

Illustrations.

(*a.*) A gives authority to B to sell A's land, and to pay himself, out of the proceeds, the debts due to him from A. A cannot revoke this authority, nor can it be terminated by his insanity or death.

(*b.*) A consigns 1,000 bales of cotton to B, who has made advances to him on such cotton, and desires B to sell the cotton, and to repay himself out of the price the amount of his own advances. A cannot revoke this authority, nor is it terminated by his insanity or death.

When principal may revoke agent's authority.

203. The principal may, save as is otherwise provided by the last preceding section, revoke the authority given to his agent at any time before the authority has been exercised so as to bind the principal.

Revocation where authority has been partly exercised.

204. The principal cannot revoke the authority given to his agent after the authority has been partly exercised, so far as regards such acts and obligations as arise from acts already done in the agency.

Illustrations.

Illustrations.

(*a.*) A authorizes B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's moneys remaining in B's hands. B buys 1,000 bales of cotton in his own name, so as to make himself personally liable for the price. A cannot revoke B's authority so far as regards payment for the cotton.

(*b.*) A authorizes B to buy 1,000 bales of cotton on account of A, and to pay for it out of A's moneys remaining in B's hands. B buys 1,000 bales of cotton in A's name, and so as not to render himself personally liable for the price. A can revoke B's authority to pay for the cotton.

Compensation for revocation by principal, or renunciation by agent.

205. Where there is an express or implied contract that the agency should be continued for any period of time, the principal must make compensation to the agent, or the agent to the principal, as the case may be, for any previous revocation or renunciation of the agency without sufficient cause.

Notice of revocation or renunciation.

206. Reasonable notice must be given of such revocation or renunciation, otherwise the damage thereby resulting to the principal or the agent, as the case may be, must be made good to the one by the other.

Revocation and renunciation may be expressed or implied.

207. Revocation and renunciation may be expressed or may be implied in the conduct of the principal or agent respectively.

Illustration.

A empowers B to let A's house. Afterwards A lets it himself. This is an implied revocation of B's authority.

When termination of agent's authority takes effect as to agent, and as to third persons.

208. The termination of the authority of an agent does not, so far as regards the agent, take effect before it becomes known to him, or, so far as regards third persons, before it becomes known to them.

Illustrations.

(*a.*) A directs B to sell goods for him, and agrees to give B five per cent. commission on the price fetched by the goods. A afterwards, by letter, revokes B's authority. B, after the letter is sent, but before he receives it, sells the goods for 100 rupees. The sale is binding on A, and B is entitled to five rupees as his commission.

(*b.*) A, at Madras, by letter directs B to sell for him some cotton lying in a warehouse in Bombay, and afterwards, by letter, revokes his authority to sell, and directs B to send the cotton to Madras. B, after receiving the second letter, enters into

into a contract with C, who knows of the first letter, but not of the second, for the sale to him of the cotton. C pays B the money, with which B absconds. C's payment is good as against A.

(*c.*) A directs B, his agent, to pay certain money to C. A dies, and D takes out probate to his will. B, after A's death, but before hearing of it, pays the money to C. The payment is good as against D, the executor.

Agent's duty on termination of agency by principal's death or insanity.

209. When an agency is terminated by the principal dying or becoming of unsound mind, the agent is bound to take, on behalf of the representatives of his late principal, all reasonable steps for the protection and preservation of the interests entrusted to him.

Termination of sub-agent's authority.

210. The termination of the authority of an agent causes the termination (subject to the rules herein contained regarding the termination of an agent's authority) of the authority of all sub-agents appointed by him.

Agent's Duty to Principal.

Agent's duty in conducting principal's business.

211. An agent is bound to conduct the business of his principal according to the directions given by the principal, or, in the absence of any such directions, according to the custom which prevails in doing business of the same kind at the place where the agent conducts such business. When the agent acts otherwise, if any loss be sustained, he must make it good to his principal, and if any profit accrues, he must account for it.

Illustrations.

(*a.*) A, an agent engaged in carrying on for B a business, in which it is the custom to invest from time to time, at interest, the moneys which may be in hand, omits to make such investment. A must make good to B the interest usually obtained by such investments.

(*b.*) B, a broker, in whose business it is not the custom to sell on credit, sells goods of A on credit to C, whose credit at the time was very high. C, before payment, becomes insolvent. B must make good the loss to A.

Skill and diligence required from agent.

212. An agent is bound to conduct the business of the agency with as much skill as is generally possessed by persons engaged in similar business, unless the principal has notice of his want of skill. The agent is always bound to act with reasonable diligence, and to use such skill as he possesses; and to make

make compensation to his principal in respect of the direct consequences of his own neglect, want of skill, or misconduct, but not in respect of loss or damage which are indirectly or remotely caused by such neglect, want of skill, or misconduct.

Illustrations.

(*a.*) A, a merchant in Calcutta, has an agent, B, in London, to whom a sum of money is paid on A's account, with orders to remit. B retains the money for a considerable time. A, in consequence of not receiving the money, becomes insolvent. B is liable for the money and interest from the day on which it ought to have been paid, according to the usual rate, and for any further direct loss—as, *e. g.*, by variation of rate of exchange—but not further.

(*b.*) A, an agent for the sale of goods, having authority to sell on credit, sells to B on credit, without making the proper and usual enquiries as to the solvency of B. B, at the time of such sale, is insolvent. A must make compensation to his principal in respect of any loss thereby sustained.

(*c.*) A, an insurance-broker employed by B to effect an insurance on a ship, omits to see that the usual clauses are inserted in the policy. The ship is afterwards lost. In consequence of the omission of the clauses nothing can be recovered from the underwriters. A is bound to make good the loss to B.

(*d.*) A, a merchant in England, directs B, his agent at Bombay, who accepts the agency, to send him 100 bales of cotton by a certain ship. B, having it in his power to send the cotton, omits to do so. The ship arrives safely in England. Soon after her arrival the price of cotton rises. B is bound to make good to A the profit which he might have made by the 100 bales of cotton at the time the ship arrived, but not any profit he might have made by the subsequent rise.

Agent's accounts.

213. An agent is bound to render proper accounts to his principal on demand.

Agent's duty to communicate with principal.

214. It is the duty of an agent, in cases of difficulty, to use all reasonable diligence in communicating with his principal, and in seeking to obtain his instructions.

Right of principal when agent deals, on his own account, in business of agency without principal's consent.

215. If an agent deals on his own account in the business of the agency, without first obtaining the consent of his principal and acquainting him with all material circumstances which have come to his own knowledge on the subject, the principal may repudiate the transaction, if the case show, either that any material fact has been dishonestly concealed from him

him by the agent, or that the dealings of the agent have been disadvantageous to him.

Illustrations.

(*a.*) A directs B to sell A's estate. B buys the estate for himself in the name of C. A, on discovering that B has bought the estate for himself, may repudiate the sale, if he can show that B has dishonestly concealed any material fact, or that the sale has been disadvantageous to him.

(*b.*) A directs B to sell A's estate. B, on looking over the estate before selling it, finds a mine on the estate which is unknown to A. B informs A that he wishes to buy the estate for himself, but conceals the discovery of the mine. A allows B to buy, in ignorance of the existence of the mine. A, on discovering that B knew of the mine at the time he bought the estate, may either repudiate or adopt the sale at his option.

Principal's right to benefit gained by agent dealing on his own account in business of agency.

216. If an agent, without the knowledge of his principal, deals in the business of the agency on his own account instead of on account of his principal, the principal is entitled to claim from the agent any benefit which may have resulted to him from the transaction.

Illustration.

A directs B, his agent, to buy a certain house for him. B tells A it cannot be bought, and buys the house for himself. A may, on discovering that B has bought the house, compel him to sell it to A at the price he gave for it.

Agent's right of retainer out of sums received on principal's account.

217. An agent may retain, out of any sums received on account of the principal in the business of the agency, all moneys due to himself in respect of advances made or expenses properly incurred by him in conducting such business, and also such remuneration as may be payable to him for acting as agent.

Agent's duty to pay sums received for principal.

218. Subject to such deductions, the agent is bound to pay to his principal all sums received on his account.

When agent's remuneration becomes due.

219. In the absence of any special contract, payment for the performance of any act is not due to the agent until the completion of such act; but an agent may detain moneys received by him on account of goods sold, although the whole of the goods consigned to him for sale may not have been sold,

sold, or although the sale may not be actually complete.

220. An agent who is guilty of misconduct in the business of the agency, is not entitled to any remuneration in respect of that part of the business which he has misconducted.

Agent not entitled to remuneration for business misconducted.

Illustrations.

(*a.*) A employs B to recover 1,00,000 rupees from C, and to lay it out on good security. B recovers the 1,00,000 rupees and lays out 90,000 rupees on good security, but lays out 10,000 rupees on security which he ought to have known to be bad, whereby A loses 2,000 rupees. B is entitled to remuneration for recovering the 1,00,000 rupees and for investing the 90,000 rupees. He is not entitled to any remuneration for investing the 10,000 rupees, and he must make good the 2,000 rupees to B.

(*b.*) A employs B to recover 1,000 rupees from C. Through B's misconduct the money is not recovered. B is entitled to no remuneration for his services, and must make good the loss.

221. In the absence of any contract to the contrary, an agent is entitled to retain goods, papers, and other property, whether moveable or immoveable, of the principal received by him, until the amount due to himself for commission, disbursements and services in respect of the same has been paid or accounted for to him.

Agent's lien on principal's goods and papers.

Principal's Duty to Agent.

222. The employer of an agent is bound to indemnify him against the consequences of all lawful acts done by such agent in exercise of the authority conferred upon him.

Agent to be indemnified against consequences of lawful acts.

Illustrations.

(*a.*) B, at Singápur, under instructions from A of Calcutta, contracts with C to deliver certain goods to him. A does not send the goods to B, and C sues B for breach of contract. B informs A of the suit, and A authorizes him to defend the suit. B defends the suit, and is compelled to pay damages and costs, and incurs expenses. A is liable to B for such damages, costs and expenses.

(*b.*) B, a broker at Calcutta, by the orders of A, a merchant there, contracts with C for the purchase of 10 casks of oil for A. Afterwards A refuses to receive the oil, and C sues B. B informs A, who repudiates the contract altogether. B defends, but unsuccessfully, and has to pay damages and costs and incurs expenses. A is liable to B for such damages, costs and expenses.

223. Where

Agent to be indemnified against consequences of acts done in good faith.

223. Where one person employs another to do an act, and the agent does the act in good faith, the employer is liable to indemnify the agent against the consequences of that act, though it cause an injury to the rights of third persons.

Illustrations.

(*a.*) A, a decree-holder and entitled to execution of B's goods, requires the officer of the Court to seize certain goods, representing them to be the goods of B. The officer seizes the goods, and is sued by C, the true owner of the goods. A is liable to indemnify the officer for the sum which he is compelled to pay to C, in consequence of obeying A's directions.

(*b.*) B, at the request of A, sells goods in the possession of A, but which A had no right to dispose of. B does not know this, and hands over the proceeds of the sale to A. Afterwards C, the true owner of the goods, sues B and recovers the value of the goods and costs. A is liable to indemnify B for what he has been compelled to pay to C, and for B's own expenses.

Non-liability of employer of agent to do a criminal act.

224. Where one person employs another to do an act which is criminal, the employer is not liable to the agent, either upon an express or an implied promise to indemnify him against the consequences of that act.

Illustrations.

(*a.*) A employs B to beat C, and agrees to indemnify him against all consequences of the act. B thereupon beats C, and has to pay damages to C for so doing. A is not liable to indemnify B for those damages.

(*b.*) B, the proprietor of a newspaper, publishes, at A's request, a libel upon C in the paper, and A agrees to indemnify B against the consequences of the publication, and all costs and damages of any action in respect thereof. B is sued by C and has to pay damages, and also incurs expenses. A is not liable to B upon the indemnity.

Compensation to agent for injury caused by principal's neglect.

225. The principal must make compensation to his agent in respect of injury caused to such agent by the principal's neglect or want of skill.

Illustration.

A employs B as a bricklayer in building a house, and puts up the scaffolding himself. The scaffolding is unskilfully put up, and B is in consequence hurt. A must make compensation to B.

EFFECT

EFFECT OF AGENCY ON CONTRACTS WITH THIRD PERSONS.

226. Contracts entered into through an agent, and obligations arising from acts done by an agent, may be enforced in the same manner, and will have the same legal consequences as if the contracts had been entered into and the acts done by the principal in person.

Enforcement and consequences of agent's contracts.

Illustrations.

(*a.*) A buys goods from B, knowing that he is an agent for their sale, but not knowing who is the principal. B's principal is the person entitled to claim from A the price of the goods, and A cannot, in a suit by the principal, set-off against that claim a debt due to himself from B.

(*b.*) A, being B's agent, with authority to receive money on his behalf, receives from C a sum of money due to B. C is discharged of his obligation to pay the sum in question to B.

227. When an agent does more than he is authorized to do, and when the part of what he does, which is within his authority, can be separated from the part which is beyond his authority, so much only of what he does as is within his authority is binding as between him and his principal.

Principal how far bound, when agent exceeds authority.

Illustration.

A, being owner of a ship and cargo, authorizes B to procure an insurance for 4,000 rupees on the ship. B procures a policy for 4,000 rupees on the ship, and another for the like sum on the cargo. A is bound to pay the premium for the policy on the ship, but not the premium for the policy on the cargo.

228. Where an agent does more than he is authorized to do, and what he does beyond the scope of his authority cannot be separated from what is within it, the principal is not bound to recognize the transaction.

Principal not bound when excess of agent's authority is not separable

Illustration.

A authorizes B to buy 500 sheep for him. B buys 500 sheep and 200 lambs for one sum of 6,000 rupees. A may repudiate the whole transaction.

229. Any notice given to or information obtained by the agent, provided it be given or obtained in the course of the business transacted by him for the principal, shall, as between the principal and third parties, have

Consequences of notice given to agent.

have the same legal consequence as if it had been given to or obtained by the principal.

Illustrations.

(*a.*) A is employed by B to buy from C certain goods, of which C is the apparent owner, and buys them accordingly. In the course of the treaty for the sale, A learns that the goods really belonged to D, but B is ignorant of that fact. B is not entitled to set-off a debt owing to him from C against the price of the goods.

(*b.*) A is employed by B to buy from C goods of which C is the apparent owner. A was, before he was so employed, a servant of C, and then learnt that the goods really belonged to D, but B is ignorant of that fact. In spite of the knowledge of his agent, B may set-off against the price of the goods a debt owing to him from C.

Agent cannot personally enforce, nor be bound by, contracts on behalf of principal.

230. In the absence of any contract to that effect, an agent cannot personally enforce contracts entered into by him on behalf of his principal, nor is he personally bound by them.

Presumption of contract to contrary.

Such a contract shall be presumed to exist in the following cases:—

(1.) Where the contract is made by an agent for the sale or purchase of goods for a merchant resident abroad:

(2.) Where the agent does not disclose the name of his principal:

(3.) Where the principal, though disclosed, cannot be sued.

Rights of parties to a contract made by agent not disclosed.

231. If an agent makes a contract with a person who neither knows, nor has reason to suspect, that he is an agent, his principal may require the performance of the contract; but the other contracting party has, as against the principal, the same rights as he would have had as against the agent if the agent had been principal.

If the principal discloses himself before the contract is completed, the other contracting party may refuse to fulfil the contract, if he can show that, if he had known who was the principal in the contract, or if he had known that the agent was not a principal, he would not have entered into the contract.

232. Where

232. Where one man makes a contract with another, neither knowing nor having reasonable ground to suspect that the other is an agent, the principal, if he requires the performance of the contract, can only obtain such performance subject to the rights and obligations subsisting between the agent and the other party to the contract.

Performance of contract with agent supposed to be principal.

Illustration.

A, who owes 500 rupees to B, sells 1,000 rupees' worth of rice to B. A is acting as agent for C in the transaction, but B has no knowledge nor reasonable ground of suspicion that such is the case. C cannot compel B to take the rice without allowing him to set-off A's debt.

233. In cases where the agent is personally liable, a person dealing with him may hold either him or his principal, or both of them, liable.

Right of person dealing with agent personally liable.

Illustration.

A enters into a contract with B to sell him 100 bales of cotton, and afterwards discovers that B was acting as agent for C. A may sue either B or C, or both, for the price of the cotton.

234. When a person who has made a contract with an agent induces the agent to act upon the belief that the principal only will be held liable, or induces the principal to act upon the belief that the agent only will be held liable, he cannot afterwards hold liable the agent or principal respectively.

Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable.

235. A person untruly representing himself to be the authorized agent of another, and thereby inducing a third person to deal with him as such agent, is liable, if his alleged employer does not ratify his acts, to make compensation to the other in respect of any loss or damage which he has incurred by so dealing.

Liability of pretended agent.

236. A person with whom a contract has been entered into in the character of agent, is not entitled to require the performance of it, if he was in reality acting, not as agent, but on his own account.

Person falsely contracting as agent, not entitled to performance.

237. When an agent has, without authority, done acts or incurred obligations to third persons on behalf of his principal, the principal is bound by such acts or obligations, if he has by his words or conduct induced such third persons to believe that such acts and obligations were within the scope of the agent's authority.

Liability of principal inducing belief that agent's unauthorized acts were authorized.

Illustrations.

Illustrations.

(*a.*) A consigns goods to B for sale, and gives him instructions not to sell under a fixed price. C, being ignorant of B's instructions, enters into a contract with B to buy the goods at a price lower than the reserved price. A is bound by the contract.

(*b.*) A entrusts B with negotiable instruments endorsed in blank. B sells them to C in violation of private orders from A. The sale is good.

Effect, on agreement, of misrepresentation or fraud by agent.

238. Misrepresentations made, or frauds committed, by agents acting in the course of their business for their principals, have the same effect on agreements made by such agents as if such misrepresentations or frauds had been made or committed by the principals; but misrepresentations made, or frauds committed, by agents, in matters which do not fall within their authority, do not affect their principals.

Illustrations.

(*a.*) A, being B's agent for the sale of goods, induces C to buy them by a misrepresentation, which he was not authorized by B to make. The contract is voidable, as between B and C, at the option of C.

(*b.*) A, the captain of B's ship, signs bills of lading without having received on board the goods mentioned therein. The bills of lading are void as between B and the pretended consignor.

CHAPTER XI.

Of Partnership.

'Partnership' defined.

239. 'Partnership' is the relation which subsists between persons who have agreed to combine their property, labour, or skill in some business, and to share the profits thereof between them.

Firm defined.

Persons who have entered into partnership with one another are called collectively a 'firm.'

Illustrations.

(*a.*) A and B buy 100 bales of cotton, which they agree to sell for their joint account; A and B are partners in respect of such cotton.

(*b.*) A and B buy 100 bales of cotton, agreeing to share it between them. A and B are not partners.

(*c.*) A

(*c.*) A agrees with B, a goldsmith, to buy and furnish gold to B, to be worked up by him and sold, and that they shall share in the resulting profit or loss. A and B are partners.

(*d.*) A and B agree to work together as carpenters, but that A shall receive all profits and shall pay wages to B. A and B are not partners.

(*e.*) A and B are joint owners of a ship. This circumstance does not make them partners.

Lender not a partner by advancing money for share of profits.

240. A loan to a person engaged or about to engage in any trade or undertaking, upon a contract with such person that the lender shall receive interest at a rate varying with the profits, or that he shall receive a share of the profits, does not, of itself, constitute the lender a partner, or render him responsible as such.

Property left in business by retiring partner, or deceased partner's representative.

241. In the absence of any contract to the contrary, property left by a retiring partner, or the representative of a deceased partner, to be used in the business, is to be considered a loan within the meaning of the last preceding section.

Servant or agent remunerated by share of profits, not a partner.

242. No contract for the remuneration of a servant or agent of any person, engaged in any trade or undertaking, by a share of the profits of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner.

Widow or child of deceased partner receiving annuity out of profits, not a partner.

243. No person, being a widow or child of a deceased partner of a trader, and receiving, by way of annuity, a proportion of the profits made by such trader in his business, shall, by reason only of such receipt, be deemed to be a partner of such trader, or be subject to any liabilities incurred by him.

Person receiving portion of profits for sale of good-will, not a partner.

244. No person receiving, by way of annuity or otherwise, a portion of the profits of any business, in consideration of the sale by him of the good-will of such business, shall, by reason only of such receipt, be deemed to be a partner of the person carrying on such business, or be subject to his liabilities.

Responsibility of person leading another to believe him partner.

245. A person who has, by words spoken or written, or by his conduct, led another to believe that he is a partner in a particular firm, is responsible to him as a partner in such firm.

246. Any

Liability of person permitting himself to be represented as a partner.

246. Any one consenting to allow himself to be represented as a partner, is liable, as such, to third persons who, on the faith thereof, give credit to the partnership.

Minor partner not personally liable, but his share is.

247. A person who is under the age of majority according to the law to which he is subject, may be admitted to the benefits of partnership, but cannot be made personally liable for any obligation of the firm; but the share of such minor in the property of the firm is liable for the obligations of the firm.

Liability of minor partner on attaining majority.

248. A person who has been admitted to the benefits of partnership under the age of majority, becomes, on attaining that age, liable for all obligations incurred by the partnership since he was so admitted, unless he gives public notice, within a reasonable time, of his repudiation of the partnership.

Partner's liability for debts of partnership.

249. Every partner is liable for all debts and obligations incurred while he is a partner in the usual course of business by or on behalf of the partnership; but a person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of such firm for any thing done before he became a partner.

Partner's liability to third person for neglect or fraud of co-partner.

250. Every partner is liable to make compensation to third persons in respect of loss or damage arising from the neglect or fraud of any partner in the management of the business of the firm.

Partner's power to bind co-partners.

251. Each partner who does any act necessary for, or usually done in, carrying on the business of such a partnership as that of which he is a member, binds his co-partners to the same extent as if he were their agent duly appointed for that purpose.

Exception.—If it has been agreed between the partners that any restriction shall be placed upon the power of any one of them, no act done in contravention of such agreement shall bind the firm with respect to persons having notice of such agreement.

Illustrations.

(*a.*) A and B trade in partnership, A residing in England, and B in India. A draws a bill of exchange in the name of the firm.

firm. B has no notice of the bill, nor is he at all interested in the transaction. The firm is liable on the bill, provided the holder did not know of the circumstances under which the bill was drawn.

(*b.*) A, being one of a firm of solicitors and attorneys, draws a bill of exchange in the name of the firm without authority. The other partners are not liable on the bill.

(*c.*) A and B carry on business in partnership as bankers. A sum of money is received by A on behalf of the firm. A does not inform B of such receipt, and afterwards A appropriates the money to his own use. The partnership is liable to make good the money.

(*d.*) A and B are partners. A, with the intention of cheating B, goes to a shop and purchases articles on behalf of the firm, such as might be used in the ordinary course of the partnership business, and converts them to his own separate use, there being no collusion between him and the seller. The firm is liable for the price of the goods.

Annulment of contract defining partners' rights and obligations.

252. Where partners have by contract regulated and defined, as between themselves, their rights and obligations, such contract can be annulled or altered only by consent of all of them, which consent must either be expressed or be implied from a uniform course of dealing.

Illustration.

A, B and C, intending to enter into partnership, execute written articles of agreement, by which it is stipulated that the nett profits arising from the partnership business shall be equally divided between them. Afterwards they carry on the partnership business for many years, A receiving one-half of the nett profits, and the other half being divided equally between B and C. All parties know of and acquiesce in this arrangement. This course of dealing supersedes the provision in the articles as to the division of profits.

Rules determining partners' mutual relations, where no contract to contrary.

253. In the absence of any contract to the contrary, the relations of partners to each other are determined by the following rules :—

(1.) All partners are joint owners of all property originally brought into the partnership stock, or bought with money belonging to the partnership, or acquired for purposes of the partnership business. All such property is called partnership property. The share of each partner in the partnership property is the value of his original contribution

tribution, increased or diminished by his share of profit or loss:

(2.) All partners are entitled to share equally in the profits of the partnership business, and must contribute equally towards the losses sustained by the partnership:

(3.) Each partner has a right to take part in the management of the partnership business:

(4.) Each partner is bound to attend diligently to the business of the partnership, and is not entitled to any remuneration for acting in such business:

(5.) When differences arise as to ordinary matters connected with the partnership business, the decision shall be according to the opinion of the majority of the partners; but no change in the nature of the business of the partnership can be made, except with the consent of all the partners:

(6.) No person can introduce a new partner into a firm without the consent of all the partners:

(7.) If, from any cause whatsoever, any member of a partnership ceases to be so, the partnership is dissolved as between all the other members:

(8.) Unless the partnership has been entered into for a fixed term, any partner may retire from it at any time:

(9.) Where a partnership has been entered into for a fixed term, no partner can, during such term, retire, except with the consent of all the partners, nor can he be expelled by his partners for any cause whatever, except by order of Court:

(10.) Partnerships, whether entered into for a fixed term or not, are dissolved by the death of any partner.

When Court may dissolve partnership.

254. At the suit of a partner the Court may dissolve the partnership in the following cases:—

(1.) When a partner becomes of unsound mind:

(2.) When

(2.) When a partner, other than the partner suing, has been adjudicated an insolvent under any law relating to insolvent debtors:

(3.) When a partner, other than the partner suing, has done any act by which the whole interest of such partner is legally transferred to a third person:

(4.) When any partner becomes incapable of performing his part of the partnership contract:

(5.) When a partner, other than the partner suing, is guilty of gross misconduct in the affairs of the partnership or towards his partners:

(6.) When the business of the partnership can only be carried on at a loss.

Dissolution of partnership by prohibition of business.

255. A partnership is in all cases dissolved by its business being prohibited by law.

Rights and obligations of partners in partnership continued after expiry of term for which it was entered into.

256. If a partnership entered into for a fixed term be continued after such term has expired, the rights and obligations of the partners will, in the absence of any agreement to the contrary, remain the same as they were at the expiration of the term, so far as such rights and obligations can be applied to a partnership dissolvable at the will of any partner.

General duties of partners.

257. Partners are bound to carry on the business of the partnership for the greatest common advantage, to be just and faithful to each other, and to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

Account, to firm, of benefit derived from transaction affecting partnership.

258. A partner must account to the firm for any benefit derived from a transaction affecting the partnership.

Illustrations.

(*a.*) A, B and C are partners in trade. C, without the knowledge of A and B, obtains for his own sole benefit a lease of the house in which the partnership business is carried on. A and B are entitled to participate, if they please, in the benefit of the lease.

(*b.*) A,

(*b.*) A, B and C carry on business together in partnership as merchants trading between Bombay and London. D, a merchant in London, to whom they make their consignments, secretly allows C a share of the commission which he receives upon such consignments, in consideration of C's using his influence to obtain the consignments for him. C is liable to account to the firm for the money so received by him.

Obligations, to firm, of partner carrying on competing business.

259. If a partner, without the knowledge and consent of the other partners, carries on any business competing or interfering with that of the firm, he must account to the firm for all profits made in such business, and must make compensation to the firm for any loss occasioned thereby.

Revocation of continuing guarantee by change in firm.

260. A continuing guarantee, given either to a firm or to a third person, in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or in respect of the transactions of which, such guarantee was given.

Non-liability of deceased partner's estate for subsequent obligations.

261. The estate of a partner who has died is not, in the absence of an express agreement, liable in respect of any obligation incurred by the firm after his death.

Payment of partnership-debts, and of separate debts.

262. Where there are joint debts due from the partnership, and also separate debts due from any partner, the partnership property must be applied in the first instance in payment of the debts of the firm, and if there is any surplus, then the share of each partner must be applied in payment of his separate debts or paid to him. The separate property of any partner must be applied first in the payment of his separate debts, and the surplus (if any) in the payment of the debts of the firm.

Continuance of partners' rights and obligations after dissolution.

263. After a dissolution of partnership, the rights and obligations of the partners continue in all things necessary for winding-up the business of the partnership.

Notice of dissolution.

264. Persons dealing with a firm will not be affected by a dissolution of which no public notice has been given, unless they themselves had notice of such dissolution.

265. In

265. In the absence of any contract to the contrary, after the termination of a partnership, each partner or his representatives may apply to the Court to wind up the business of the firm, to provide for the payment of its debts, and to distribute the surplus according to the shares of the partners respectively.

Right of partners to apply for winding-up by Court after termination of partnership.

Explanation.—The Court in this section means a Court not inferior to the Court of a District Judge within the local limits of whose jurisdiction the place or principal place of business of the firm is situated.

266. Extraordinary partnerships, such as partnerships with limited liability, incorporated partnerships, and joint-stock companies, shall be regulated by the law for the time being in force relating thereto.

Limited-liability partnerships, incorporated partnerships, and joint-stock companies.

SCHEDULE.

SCHEDULE.

ENACTMENTS REPEALED.

Statutes.

No. and year of Statute.	TITLE.	Extent of repeal.
Stat. 29 Car. II, cap. 3.	An Act for prevention of Frauds and Perjuries.	Sections one, two, three, four and seventeen.
Stat. 11 & 12 Vic., cap. 21.	To consolidate and amend the law relating to insolvent debtors in India.	Section forty-two.

Acts.

No. and year of Act.	TITLE.	Extent of repeal.
Act XIII of 1840.	An Act for the amendment of the law regarding factors, by extending to the territories of the East India Company, in cases governed by English law, the provisions of the Statute 4 Geo. iv, chap. 83, as altered and amended by the Statute 6 Geo. iv, chap. 94.	The whole.
Act XIV of 1840.	An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by English law, the provisions of the Statute 9 Geo. iv, chap. 14.	The whole.
Act XX of 1844.	An Act to amend the law relating to Advances *bonâ fide* made to Agents intrusted with goods, by extending to the territories of	The whole.

No. and year of Act.	TITLE.	Extent of repeal.
	the East India Company, in cases governed by English law, the provisions of the Statute 5 & 6 Victoria, c. 39, as altered by this Act.	
Act XXI of 1848.	An Act for avoiding Wagers ...	The whole.
Act V of 1866.	An Act to provide a summary procedure on bills of exchange, and to amend in certain respects the commercial law of British India.	Sections nine and ten.
Act XV of 1866.	An Act to amend the law of Partnership in India.	The whole.
Act VIII of 1867.	An Act to amend the law relating to Horse-racing in India.	The whole.

Office Supdt. Govt. Printing,—No. 76 L. C.—17-5-72.—5,000.

THE CODE OF CRIMINAL PROCEDURE.

CONTENTS.

PREAMBLE.

PART I.

CHAPTER I.

PRELIMINARY, REPEAL, LOCAL EXTENT AND DEFINITIONS.

SECTION.

1. Short title.
   Local extent.
   Commencement.
2. Repeal of enactments.
   Saving of special procedure.
   References to Code of Criminal Procedure.
   References in former Acts.
   Certain specified references.
3. Pending cases.
4. Definitions.

PART II.

CONSTITUTION AND POWERS OF THE CRIMINAL COURTS.

CHAPTER II.

OF CRIMINAL COURTS.

5. Grades of Criminal Courts.
6. What officers to hold inquiries.
7. What Courts to try offences.
8. Offences under local and special laws.
9. Appointment and removal of Judges and Magistrates.
10. Saving of existing incumbents.
11. Inquiry and trial in case of European British subjects.

CHAPTER III.

OF COURTS OF SESSION.

12. Sessions Divisions.
13. Power to alter Divisions.
14. Existing local jurisdictions of Sessions Courts to be Sessions Divisions.

15. One

[*Price four rupees, five annas, and nine pies.*]

SECTION.
15. One Court for each Division.
16. Appointment and powers of Sessions Judges.
17. Appointment and powers of Additional and Joint Sessions Judges.
18. Appointment and powers of Assistant Sessions Judges.

CHAPTER IV.

OF MAGISTRATES AND THEIR POWERS.

19. Magistrates to be of three classes.
20. Sentences which Magistrates may pass.
Powers of Magistrates, First Class.
Powers of Magistrates, Second Class.
Powers of Magistrates, Third Class.
21. Powers conferred upon Magistrates.
22. Powers common to all Magistrates.
23. Powers which Local Government and Magistrate of the District may confer on Magistrates of the Third Class.
24. Powers of Magistrates of the Second Class.
25. Powers which may be conferred on Magistrates of the Second Class.
26. Powers of Magistrates of the First Class.
27. Powers which may be conferred on Magistrates of the First Class.
28. Powers of Magistrates of Divisions of Districts.
29. Powers which Local Government may confer on Magistrates of Divisions of Districts.
30. Powers of Magistrates of Districts.
31. Saving of other powers.
32. Irregularities which do not vitiate proceedings.
33. When irregular commitments may be validated.
34. Irregularities which render proceedings void.

THE MAGISTRATE OF THE DISTRICT.

35. Magistrate of the District.
36. Powers with which Deputy Commissioners and Chief executive officers of District may be invested.

SUBORDINATE MAGISTRATES.

37. Subordinate Magistrates.
Proviso.
38. Power to determine local jurisdiction of a Magistrate of District.
39. Division of districts into divisions.
Existing divisions preserved.
40. Local Government may put Magistrate in charge of division.

Delegation

SECTION.

Delegation of power to Magistrate of District.
41. Subordination of officers to Magistrate of Division of District.
42. "Special Magistrates."
43. Mode of conferring powers.
44. Transfer of criminal cases to Subordinate Magistrate.
45. Procedure of Magistrate in cases beyond his jurisdiction.
46. Procedure when Magistrate cannot pass sentence sufficiently severe.
Magistrate may, in the first instance, commit accused for trial before Court of Session.
47. Magistrate may withdraw or refer cases.
48. Local Government may empower Magistrates of Districts to withdraw classes of cases.
49. Local Government may authorize Magistrate of District to distribute business by localities.

MAGISTRATES' BENCHES.

50. Power to invest Magistrates sitting as a bench with certain powers.
51. Powers exercisable by such bench in absence of special directions.
52. Magistrate of the District may frame rules for guidance of benches.
53. Magistrate of District may vary or annul rules made under section 52.

CONTINUANCE AND ALTERATION OF POWERS.

54. Powers may be varied or cancelled.
55. Powers of officers temporarily succeeding to vacancies in office of Magistrate of District.
56. Continuance of powers of officers transferred.

CHAPTER V.

OF PUBLIC PROSECUTORS.

57. Appointment of public prosecutor.
58. Appointment may be for particular case or generally.
59. Private persons may not act as prosecutors or employ counsel without permission of the Court.
60. He may plead in all Courts in cases under his charge.
Barristers, &c., privately instructed, to be under his direction.
61. Effect of withdrawal of charge by public prosecutor.
62. Notice to public prosecutor of appeal in cases prosecuted by him.

CHAPTER VI.

The Place of Inquiry and Trial.

Section.

63. Place for inquiry and trial of offence.
64. High Court may transfer case, or direct trial in district other than that in which offence was committed.
65. Accused triable in district where act is done, or where consequence ensues.
66. Place for trial where act is offence by reason of relation to other offence.
67. Place for inquiry or trial where scene of offence is uncertain;
or not in one district only;
or offence is continuing,
or consists of several acts.
68. Murder as a thug, dákáit or dákáití with murder.
69. High Court to decide, in case of doubt, district where inquiry shall take place.
70. Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

CHAPTER VII.

Of Criminal Jurisdiction over European British Subjects.

71. "European British subjects."
72. Officers who may inquire into and try offences committed by European British subjects.
73. Who may hear complaints and issue process.
74. Magistrates of the first class, being European British subjects and Justices of the Peace, may inquire into complaints against European British subjects.
When such Magistrate may try, and extent of his jurisdiction.
75. When commitment is to be to Court of Session.
When commitment is to be to High Court.
76. Jurisdiction of Court of Session.
When Sessions Judge finds his powers inadequate.
77. Procedure when Sessions Judge is not a European British subject.
78. Mode of conducting trials by Court of Session.
79. Appeal from conviction of such subject by Magistrate.
80. Appeal from conviction by Court of Session.
81. Right of European British subject under detention to apply for order to produce his person.
Procedure on such application.
82. Power of High Courts as to issue of writs.
83. Procedure on claim of European British subject to be dealt with as such.
84. Failure to plead status a waiver.

SECTION.

85. Trial of person not a European British subject under this chapter.
86. Procedure of High Courts.
87. Proceedings against European British subjects to be regulated by this Act.
88. Place of confinement.

PART III.

OF THE POLICE

CHAPTER VIII.

OFFENCES OF WHICH INFORMATION MUST BE GIVEN TO THE POLICE, AND DUTY OF THE PUBLIC.

89. All persons to give information of certain offences.
90. Landholders and others bound to report certain matters.
91. All persons to assist Magistrate and Police in certain cases.

CHAPTER IX.

OF ARREST WITHOUT WARRANT.

92. When Police may arrest without warrant.
93. Person charged refusing to give his name and residence.
94. Arrest of vagabonds
95. Police to prevent certain offences.
96. Information of design to commit such offences.
97. Arrest to prevent such offences.
98. Injury to public property.
99. Ingress to be allowed into house entered by person of whom Police in search.
100. Procedure where ingress not obtainable.
101. Person arrested to be taken before Magistrate or officer in charge of Police-station.
102. Procedure when Police officer deputes subordinate to arrest without warrant.
103. Police may pursue offenders into other jurisdictions.
104. Detention of offenders attending Court.

OF ARREST BY PRIVATE PERSONS.

105. Arrest by private persons.
106. Arrest of deserters from British ships.
107. How to proceed with person arrested.
108. Offence committed in Magistrate's presence.

CHAPTER X.

Powers of the Police to investigate.

Section.

109. What offences Police officer may investigate.
110. What offences Police may not investigate.
111. Saving of powers vested in Police by special or local law.
112. Complaint to Police to be in writing.
113. Complaint in non-cognizable cases.
114. Upon information, &c., Police officer in charge of station to proceed in person or depute a subordinate.
115. Preliminary inquiry.
116. Where local investigation dispensed with.
117. Where Police officer in charge sees no sufficient ground for investigation.
118. Police officer's power to summon witnesses.
119. Oral examination of witnesses by Police.
Proviso.
120. No inducement to be offered to confess.
121. Police not to record statement or confession.
Proviso.
122. Powers of Magistrates to record statements and confessions.
123. Investigation by Police.
124. Accused not to be detained by Police more than twenty-four hours without special authority.
125. Procedure of Police in case of deficient evidence.
126. Daily record of proceedings.
127. Report of Police officer.
128. Admission to bail.
129. Bail not to be excessive.
Terms of security.
130. Complainants and witnesses to execute recognizances to appear.
131. Complainants and witnesses not to be subjected to restraint.
Recusant complainant or witness may be forwarded in custody.
132. Police to report apprehensions.
Discharge of person apprehended.
133. Police to inquire and report on unnatural and sudden deaths.
134. Power to summon persons.
135. Inquiry into cause of such death by nearest Magistrate.
136. Substitute for officer in charge of Police-station during his absence or illness.
137. Powers of superior officers of Police.
138. Assistant District Superintendent of Police may exercise powers of District Superintendent.

PART IV.

PART IV.

OF PROCEEDINGS TO COMPEL APPEARANCE

CHAPTER XI.

Of Complaints to a Magistrate.

Section.
139. Processes.
140. When summons or warrant may be issued.
141. Who may entertain complaints.
Effect of reference.
Effect of complaint or Police report.
142. Who may act without complaint.
Complaint or sanction required in certain cases
143. Who may commit for trial.
144. Examination of complainant.
Effect of irregularity.
145. Procedure by Magistrate not empowered to hear complaint.
146. Postponement of issue of process.
147. Dismissal of complaint.
Issue of process.
148. In what cases a summons may issue.
149. In what cases warrant may issue on complaint.
150. Warrant to arrest, if summons not obeyed.
151. Magistrate may dispense with personal attendance of accused.

CHAPTER XII.

Of the Summons.

152. Form of summons.
153. Summons by whom served.
154. Summons how served.
155. Service when accused cannot be found.
156. Issue of warrant in addition to summons.
157. Summons or warrant for offence committed beyond local jurisdiction.
158. Provisions in this chapter, as to form, service and issue of summons, applicable to all summonses.

CHAPTER XIII.

Of the Warrant.

159. Form of warrant.
Effect of warrant of arrest.
160. Magistrate may direct bail to be taken.
Bail-bond to be forwarded.

SECTION.

161. Warrants to whom directed.
162. Warrant may be directed to landholders, &c.
163. Warrants directed to any person other than a Police officer.
164. Warrant to several persons.
165. Warrant directed to Police officer.
166. Magistrate issuing warrant may superintend its execution.
Arrest in presence of Magistrate.
167. Where warrant may be executed.
168. Magistrate may issue warrant for execution in places outside his jurisdiction.
169. Procedure on arrest of person against whom warrant was issued.
170. Procedure by Magistrate before whom arrested person is brought.
171. Proclamation for person absconding.
172. Attachment of property of person absconding.
173. Restoration of forfeited property.
174. Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction
175. Procedure where such warrant issued by Subordinate Magistrate.
176. Notification of substance of warrant.
177. Warrant how executed.
178. Resisting endeavour to arrest.
179. Search of house entered by person against whom warrant issued.
180. Breaking of door or window.
181. Breaking open zanánâ.
182. No unnecessary restraint.
183. Person arrested to be brought before Magistrate.
184. Inducements to disclosure or confession.
185. Provisions as to warrant and its execution and issue applicable to all warrants of arrest.

PART V.

OF INQUIRIES AND TRIALS.

CHAPTER XIV.

PRELIMINARY.

186. Right of accused to be defended.
Where accused person does not understand the proceedings.
187. Criminal Courts to be open.
188. Compounding offences.

CHAPTER XV.

CHAPTER XV.

Of Inquiry into Cases triable by the Court of Session or High Court.

Section.
189. Procedure in preliminary inquiries.
190. Examination of complainant and witnesses for prosecution.
191. Examination to be in presence of accused.
Accused may cross-examine.
192. Power of Magistrate to summon and examine any person.
193. Examination of accused.
194. Adjournment of inquiry and remand.
195. When accused person to be discharged.
196. When accused is to be committed for trial.
197. When commitment to be to a High Court.
198. Contents of charge.
Copy of charge.
199. Copy of charge to be furnished to accused.
200. List of witnesses for defence on trial.
Further list.
201. Copies of depositions to be furnished to accused.
202. When commitment made, Magistrate to give notice to Government prosecutor.

CHAPTER XVI.

Of the Trial of Summons Cases by Magistrates.

203. Procedure in summons cases.
Object and effect of complaint.
When notice is defective.
204. Accused person may be admitted to bail, or allowed to be at large on his personal recognizance.
205. Non-appearance of complainant.
206. Substance of complaint to be stated.
Conviction on admission of truth of complaint.
207. Procedure when no such admission is made.
208. Adjournment.
209. Compensation in cases of frivolous or vexatious complaints.
Recovery of such compensation.
210. Withdrawal of complaint.
211. Acquittal.
Sentence.
212. Effect of dismissal.

CHAPTER XVII.

Of the Trial of Warrant Cases by Magistrates.

Section.

213. Procedure in warrant cases.
214. Sections 190 to 194 to apply.
215. Discharge of accused.
216. Charge to be drawn when offence is apparently proved.
217. Plea.
218. Defence.
219. Evidence for the defence.
220. Acquittal.
Conviction.
221. How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

CHAPTER XVIII.

Of Summary Trials.

222. What offences may be tried summarily.
223. Power to invest Magistrates with power to try summarily.
224. Power to invest Bench of Magistrates invested with first class magisterial powers.
225. Power to invest Bench of Magistrates invested with less power.
226. Procedure for summons and warrant cases applicable, with certain exceptions.
227. Record in cases where there is no appeal.
228. Record in appealable cases.
229. Language of judgment.
230. Bench of Magistrates may be empowered to employ clerk.

CHAPTER XIX.

Trial by Court of Session.

231. Cognizance of offences by Court of Session.
232. Trials to be by jury or with assessors.
233. Local Government may order trials before Court of Session to be by jury.
234. Jury for trial of Europeans or Americans.
Election to be tried without jury.
235. Trial before Court of Session to be conducted by Public Prosecutor, Government Pleader.
236. Number of jury.

237. Commencement

SECTION.

237. Commencement of trial.
Plea of guilty.
238. Refusal to plead or claim to be tried.
239. Assessors how chosen.
240. Jurors to be chosen by lot.
241. Jury for trial of persons not Europeans or Americans.
242. Jury when European or American charged jointly with one of another race.
243. Names of jurors to be called.
Objections to jurors.
244. Grounds of objection.
245. Juror to understand the language in which evidence is given or interpreted.
246. Foreman of jury.
247. Examination of witnesses.
248. Examination of accused before Magistrate to be evidence.
249. Evidence given at the preliminary inquiry admissible.
250. Examination of accused.
251. Defence.
252. Prosecutor's right of reply.
253. View by jury or assessors.
254. Procedure when juror becomes unable to attend.
255. Assessors' opinion, and charge to jury.
256. Duty of Judge.
257. Duty of jury.
258. When juryman or assessor may be examined.
259. Procedure when assessor is unable to attend.
260. Jury or assessors to attend at adjourned sitting.
261. Cases tried with assessors.
262. Decision vested in Judge.
263. Cases tried by juries.
Verdict to be given on each charge.
Judge may question jury.
Procedure where jury differ.
264. Adjournment.
Postponement of trial.
265. The same jury or assessors may try in succession several offenders.

PART VI.

APPEAL, REFERENCE, AND REVISION.

CHAPTER XX.

APPEALS.

266. Appeals from officers exercising powers less than those of a Magistrate of the first class.

267. Appeals

SECTION.

267. Appeals in bad livelihood cases.
268. Appeals from convictions in contempt cases.
269. Appeal from Magistrates.
270. Appeals by persons convicted by officers invested under section 36.
Appeals from convictions of Assistant Sessions Judges.
271. Appeals by persons convicted by Sessions Court.
272. No appeal in case of acquittal, except on behalf of Government.
273. No appeal in petty cases.
274. Appeals from summary convictions.
Saving of sentences on European British subjects.
275. Copy of judgment to accompany petition.
276. Copy of judgment or order to be furnished.
277. Procedure when appellant in jail.
278. Rejection of appeal.
279. Notice of appeal.
280. Appellate Court may alter or reverse finding and sentence, or enhance a sentence.
281. Suspension of sentence pending appeal.
Release of appellant on bail.
282. Appellate Court may make or direct further inquiry.
283. Finding or sentence when reversible by reason of error or defect in charge or proceedings.
Appellate Court may reduce punishment.
284. Procedure in case of conviction by Court not having jurisdiction.
285. Finality of orders on appeal.
286. Unless otherwise provided, no appeal to lie from judgment, order or sentence of Criminal Court.

CHAPTER XXI.

REFERENCE.

287. Sentence of death.
288. Power of High Court to confirm sentence or annul conviction.
289. Power to direct further inquiry, &c.
290. Confirmation or new sentence to be signed by two Judges.
291. When High Court consists of one Judge.

CHAPTER XXII.

SUPERINTENDENCE AND REVISION.

292. Power of High Court to make rules.
293. Calendars of trials by Subordinate Courts.

SECTION.

294. Power to call for records of Subordinate Courts.
295. Powers of Court of Session and Magistrate to call for record of Subordinate Courts.
296. Report to High Court.
297. Powers of revision.
Power to order commitment.
Power to alter finding and sentence.
Proviso as to power of altering finding.
Power to annul conviction.
Power to annul improper, and to pass proper, sentence.
Suspension of sentence.
Powers of revision confined to High Court.
Optional with Court to hear parties.
298. Courts may order inquiry.
299. Order on revision to be certified to lower Court or District Magistrate.
300. Provisions of section 283 to apply.

PART VII.

EXECUTION.

CHAPTER XXIII.

301. Procedure in cases referred to High Court for confirmation.
302. Court of Session to send copy of finding and sentence to District Magistrate.
Warrant of execution.
Procedure after sentence passed by Court inferior to Session Court.
303. Form and direction of warrant of commitment.
304. Warrant with whom to be lodged.
305. Execution of sentence under section 301 or 302.
306. Postponement of capital sentence on pregnant woman.
307. Levy of fine.
Section to what cases applicable.
Who may issue warrant.
308. Payment of fine in compensation.
309. Imprisonment in default of payment of fine.
Proviso as to cases decided by a Magistrate.
310. Whipping, if awarded in addition to imprisonment, when to be inflicted.
311. Mode of inflicting the punishment.
312. Punishment not to be inflicted if offender not in fit state of health.
Stay of execution.
Not to be executed by instalments.

SECTION.

313. Procedure if punishment cannot be inflicted under the last section.
314. Sentence in cases of simultaneous conviction of several offences.
Maximum term of imprisonment.
315. Trial of previously convicted persons.
Proviso.
316. Currency of sentence on escaped convicts.
317. Sentence on offender already sentenced for another offence.
Proviso.
318. Confinement of youthful offenders in reformatories.
319. Governor General in Council to appoint places to which persons sentenced to transportation may be sent.
Local Government to direct removal of such persons to places appointed.
320. Persons sentenced to transportation while undergoing transportation under previous sentence need not be removed.
321. Sentence of death.
322. Power to remit punishment.
Power to commute punishment.

PART VIII.

EVIDENCE.

CHAPTER XXIV.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

323. Evidence of medical witness.
Court may summon medical witness.
324. Accused may be convicted on his own plea.
325. Report of Chemical Examiner.
Genuineness of signature may be presumed.
326. Previous conviction or acquittal how proved.
327. Record of evidence in the absence of the accused.
328. Convictions on evidence partly recorded by one Magistrate and partly by another.
329. Commitments on evidence partly recorded by one officer and partly by another, valid.
330. When a commission may issue.
Mode of issuing commission.
Prosecutor and accused may examine witness.
Procedure when commission is required in Magistrate's cases.

CHAPTER XXV.

Evidence how taken.

Section.

331. Examination of complainants and witnesses.
332. Manner of recording evidence;
333. in summons cases, and in trials by Magistrates of the first and second classes, of certain offences;
334. in all other cases before Magistrates, and in all proceedings before Courts of Session.
Evidence in English.
Memorandum when evidence not taken down in writing.
335. Local Government may direct evidence to be recorded by Sessions Judge or Magistrate himself in his vernacular;
or in English or in language in ordinary use in district.
336. In cases referred to in section 333, Magistrate may record as provided in section 334 or section 335.
337. Local Government to decide what language is to be held to be in ordinary use.
338. Form of record of evidence.
339. Procedure in regard to evidence when completed.
340. Interpretation of evidence to accused or his agent.
341. Remarks respecting demeanour of witness.

Of the Examination of Accused Persons.

342. Accused may be questioned.
343. Accused not punishable for refusal to answer.
344. No influence to be used to induce disclosures.
345. Accused not to be sworn.
346. Examination of accused how recorded.
347. Magistrate may tender pardon to accomplice.
348. High Court or Court of Session may direct tender of pardon.
349. When Magistrate, Court of Session or High Court may direct commitment of person to whom pardon has been tendered.

CHAPTER XXVI.

Of Securing the Attendance of Witnesses.

350. Procedure for obtaining attendance of witnesses.
351. Power to summon material witness or examine person present.
352. When warrant of arrest may issue in first instance.
353. Procedure when warrant cannot be served.
354. Release of attached property of witness appearing and satisfying Court or Magistrate.

Sale

SECTION.

Sale of property of witness not appearing or not satisfying Court or Magistrate.
355. Arrest of person disobeying summons.
356. Committal of person refusing to answer.

INQUIRIES.

357. In inquiries preliminary to commitment.
Power to summon supplementary witnesses.
358. When accused person is to be committed.
359. Refusal to summon unnecessary witness, unless deposit made.
360. Recognizances of prosecutors and witnesses.
Detention in custody in case of refusal to attend or to execute recognizance.

SUMMONS CASES.

361. In summons cases.

WARRANT CASES.

362. In cases tried upon warrant.

SESSIONS TRIALS.

363. Right of accused as to examination and summoning of witness.
364. Procedure in case of witness refusing to answer.

OF SECURING DOCUMENTARY EVIDENCE.

365. Procedure for obtaining production of document required as evidence.
366. When warrant for search for documents may issue.
367. Power to impound document produced.

CHAPTER XXVII.

OF SEARCH-WARRANTS.

368. Search-warrant when grantable.
369. Procedure as to letter in custody of Postal Department.
370. Direction of search-warrant.
371. Warrant to Police officer may be executed by his subordinate.
Endorsement.
372. Execution of search-warrant out of district in which issued.
373. Search-warrants may, in emergency, be executed without endorsement.
Thing found to be taken to Magistrate within whose jurisdiction it is found.
Order thereon.

SECTION.

374. Procedure in such cases within Presidency town.
375. Magistrate may issue search-warrant to be executed in jurisdiction of another Magistrate.
376. Magistrate may send search-warrant by post to Magistrate of another District or Division of District.
Endorsement and execution by such Magistrate.
Direction of warrant to be executed in Presidency town.
377. Search of house suspected to contain stolen property or forged documents.
378. Magistrate may attend personally.
Magistrate may direct search in his presence.
379. Search by officer in charge of Police-station.
380. When officer of Police-station may require another to issue search-warrant.
381. Inspection of weights and measures.
382. Persons in charge of closed house to allow search.
383. Place to be searched may be broken open.
384. Breaking of zanáná.
385. Search to be made in presence of witnesses.
Occupant of place searched may attend.
386. Mode of searching women.
387. Search of arrested persons.

PART IX.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER XXVIII.

BAIL.

388. When bail shall be taken.
389. Bail not to be taken for certain offences.
When bail may be taken.
390. Power to direct admission to bail.
391. Recognizance of accused and sureties.
392. Insufficient bail.
393. Bail may be taken at any time before conviction.
394. Discharge on bail.
395. Discharge of sureties.
396. Procedure to compel payment of penalty by accused.
397. Procedure to compel payment of penalty by sureties.
398. In what cases the powers given by sections 396 and 397 may be exercised.
Remission of part of penalty.
Revision of orders.
High Court or Court of Session may direct Magistrate to levy sum forfeited.
399. Deposit may be made instead of bail.

CHAPTER XXIX.

CHAPTER XXIX.

FORMATION OF LISTS OF JURORS AND ASSESSORS AND THEIR ATTENDANCE.

SECTION.

400. List of jurors and assessors.
401. Publication of list.
402. Revision of list.
403. Annual revision of list.
404. Jurors and assessors.
405. Disqualifications.
406. Exemptions.
Person exempted is not bound to avail himself of his right of exemption.
407. Court to summon jurors.
408. Summoning and empannelling jurors under section 234.
409. Form and service of summons.
410. Power to summon another set of jurors or assessors.
411. Service of summons on officer of Government.
412. Court may excuse attendance of juror or assessor.
413. List of jurors or assessors attending.
414. Penalty for non-attendance of juror or assessor.

CHAPTER XXX.

MISCELLANEOUS PROVISIONS.

415. Procedure by Police upon seizure of stolen property.
Sale of perishable property.
416. Procedure where owner of property seized unknown.
417. Procedure if no claimant appears within six months.
418. Order for disposal of property regarding which offence committed.
419. Stay of such order.
420. Order may take form of reference to Magistrate of District.
421. Expenses of complainants and witnesses.
422. Interpreter to be bound to interpret truthfully.

CHAPTER XXXI.

LUNATICS.

423. Procedure in case of accused being lunatic.
424. When accused appears to have been insane.
425. Procedure in case of person committed before a Court of Session being lunatic.
426. Release of lunatic pending investigation or trial.
Custody of lunatic.

SECTION.

427. Resumption of inquiry or trial.
428. Procedure on accused appearing before Magistrate or Court of Session.
429. Finding in case of acquittal on ground of being lunatic.
430. Person so acquitted to be kept in safe custody.
431. Lunatic prisoners to be visited by Inspector General.
432. Procedure where lunatic prisoner is reported capable of making his defence.
433. Procedure where lunatic confined under section 430 is declared capable of being discharged.
434. Delivery of lunatic to care of relative.

CHAPTER XXXII.

CONTEMPTS OF COURT.

435. Procedure in certain cases of contempt..
436. Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.
437. Discharge of offender on submission or apology.
438. Procedure when offender is a European British subject.

PART X.

CHARGE, JUDGMENT AND SENTENCE.

CHAPTER XXXIII.

OF THE CHARGE.

FORM OF CHARGES.

439. Charge to state offence.
Specific name of offence, sufficient statement.
How stated where offence has no specific name.
What implied in charges.
Language of charge.
Previous conviction to be set out in charge.
440. Particulars as to time, place and person.
441. When manner of committing offence must be stated.
442. Forms in schedule.
443. Effect of errors.
444. Prisoner may apply for amendment.
445. Court may amend a charge.
446. How Court of Session may deal with charge.
447. When trial may proceed immediately after amendment.
448. When new trial may be directed or trial suspended.
449. Prosecutor and accused person may recall witnesses.

SECTION.

450. Previous sanction to be obtained if offence in new charge require it.
451. Effect of material error.

JOINDER OF CHARGES.

452. Separate charges for distinct offences.
453. More offences than one of same kind may be charged within a year of each other.
454. I.—Trial of more than one offence.
II.—One offence falling within two definitions.
III.—Acts severally constituting more than one offence, but collectively coming within one definition.
455. Where it is doubtful what offence has been committed.
456. When a person is charged with one offence, he can be convicted of another.
457. When offence proved included in offence charged.
458. What persons may be charged jointly.
459. Withdrawal of remaining charges, on conviction on one of several charges.

PREVIOUS ACQUITTALS OR CONVICTIONS.

460. Person once convicted or acquitted not to be tried for same offence.

CHAPTER XXXIV.

OF THE JUDGMENT, ORDER AND SENTENCE.

461. Judgment to specify offence.
Judgment in the alternative.
462. When judgment is to be pronounced.
463. Judgment to be written in English, or language of district.
Proviso.
464. Judgment what to contain.
Judgment to be translated.

CHAPTER XXXV.

PROSECUTIONS IN CERTAIN CASES.

465. Prosecutions for offences against the State.
466. Prosecution of Judges and public servants.
Sanction when to be given.
Power of Local Government.
467. Prosecution for contempts of the lawful authority of public servants.
468. Prosecution for certain offences against public justice.
469. Prosecution for certain offences relating to documents given in evidence.

470. Nature

SECTION.

470. Nature of sanction necessary.
471. Procedure in cases mentioned in sections 467, 468 and 469.
472. Power of Court of Session as to such offences committed before itself.
473. Offences in contempt of Court how to be disposed of.
474. Power of Civil Courts to complete investigation and commit to Court of Session.
475. Procedure of Civil Court in such cases.
476. Court may exercise all powers of Magistrate as to binding over persons to give evidence.
477. Procedure where offence triable only by Session Court is committed before Magistrate not empowered to commit to such Court.
478. Prosecution for adultery.
479. Prosecution for enticing away a married woman.

PART XI.

PREVENTIVE JURISDICTION OF MAGISTRATES.

CHAPTER XXXVI.

OF THE DISPERSION OF UNLAWFUL ASSEMBLIES.

480. Assembly to disperse on command of Magistrate or Police officer.
481. Use of force to disperse.
482. Use of military force.
483. When use of military force is not an offence.
484. Duty of officer commanding troops required by Magistrate to disperse assembly.
485. When acts done in obeying requisition not an offence.
486 Acts of inferior officers and soldiers, done in obedience to order, not an offence.
487. Duty of Queen's officers to suppress assembly.
488. Sanction required to prosecutions for acts done under sections 481, 482, 484 and 487.

CHAPTER XXXVII.

OF SECURITY FOR KEEPING THE PEACE.

489. Personal recognizance to keep the peace in cases of conviction.

Where

SECTION.

Where convicting officer is not in charge of Division of District nor a Magistrate of first class.
490. Security to keep the peace.
491. Summons to any person to show cause why he should not give bond to keep peace.
492. Form of summons.
493. Penalty of bond.
494. Warrant of arrest.
495. Magistrate may dispense with personal attendance of person informed against.
496. Discharge of person informed against.
497. Non-compliance with order to give bond.
498. Time for which person may be bound to keep peace.
Limit of imprisonment under section 497.
499. Extension of time for which person may be bound.
500. Discharge of recognizances.
501. Discharge of sureties.
502. Recovery of penalty from principal.
503. Recovery of penalty from surety.

CHAPTER XXXVIII.

OF SECURITY FOR GOOD BEHAVIOUR.

504. When Magistrate may require security for good behaviour for six months.
Binding of sentenced person.
When Sessions Judge or unauthorized Magistrate thinks a person should be bound.
Powers of Magistrate of Division of District, being a Magistrate of the second class, to inquire.
505. When Magistrate may require security for good behaviour for one year.
506. Procedure where security required for more than one year.
507. Proceedings to be laid before Court of Session.
508. Court of Session may require security for period not exceeding three years.
509. Contents of order for security.
510. Imprisonment in default of security.
Term of imprisonment.
511. Release of prisoners under requisition of security.
512. Report in case of prisoner under requisition of security by order of Court of Session.
513. Discharge of surety.
514. Recovery of penalty from sureties.
515. Issue of summons and warrant of arrest.
Place where proceedings may be held.

Manner

SECTION.

Manner of taking evidence under chapter XXXVII or this chapter.
Previous convictions may be proved.
516. Sureties may be rejected on the ground of character.
517. Chapter not applicable to European British subjects.

CHAPTER XXXIX.

LOCAL NUISANCES.

518. Magistrate may issue orders to prevent obstructions, danger to human life, or riots.
519. Magistrate may prohibit repetition or continuance of public nuisances.
520. Orders not judicial proceedings.
521. Magistrate may order removal of nuisances.
Order to be a judicial proceeding.
Order to be in the alternative.
522. Service or notification of order.
523. Person ordered shall obey, or may claim a jury.
Constitution of jury.
Suspension of order.
When order may be made absolute.
Report of jury and order thereon.
524. Attendance of jury.
525. Procedure in case of disobedience or neglect by person ordered.
526. Procedure where jury finds Magistrate's order to be reasonable.
527. Procedure where person ordered satisfies Magistrate that order is not reasonable.
528. Injunction pending inquiry by jury.
529. Saving of certain statutory provisions.

CHAPTER XL.

POSSESSION.

530. Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.
Party in possession to be continued until ousted by due course of law.
531. If previous possession cannot be ascertained, Magistrate may attach subject of dispute.
532. Disputes concerning right of use of land or water.
533. Local inquiry to determine boundary dispute.
534. Power to restore possession of immoveable property.
535. Saving of powers of Collectors and Revenue Courts.

CHAPTER XLI.

CHAPTER XLI.

Of the Maintenance of Wives and Families.

Section.

536. Order for maintenance of wives and children.
Enforcement of order.
Proviso.
537. Alteration in allowance.
538. Enforcement of order.

PART XII.

MISCELLANEOUS PROVISIONS.

CHAPTER XLII.

Miscellaneous.

539. Procedure in miscellaneous criminal cases and proceedings.
540. Saving of jurisdiction of Presidency Police Magistrates.
541. Saving of jurisdiction and procedure of Landholders, Heads of Villages, Village Police Officers, Cantonment Magistrates.

Schedule I.—Enactments repealed.

Schedule II.—Forms of summons, warrants, bonds and recognizances.

Schedule III.—Forms of charges.

Schedule IV.—Tabular Statement of offences.

Schedule V.—Acts containing references to Criminal Procedure Code.

BENGAL LIBRARY

ACT No. X of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 25th April 1872*).

An Act for regulating the Procedure of the Courts of Criminal Judicature.

WHEREAS it is expedient to consolidate and amend the law regulating the Procedure of the Courts of Criminal Judicature, other than the High Courts in Presidency towns in the exercise of their original criminal jurisdiction, and the Courts of Police Magistrates in such towns; It is hereby enacted as follows:— Preamble.

PART I.

CHAPTER I.

PRELIMINARY, REPEAL, LOCAL EXTENT, AND DEFINITIONS.

1. This Act may be called "The Code of Criminal Procedure:" Short title.

It extends to the whole of British India, but shall not, except as hereinafter provided, affect the procedure of the High Courts or Police Magistrates in Presidency towns; Local extent.

And it shall come into force on the first day of September 1872. Commencement.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column of the said schedule. Repeal of enactments.

Wherever a special form of procedure is prescribed by any law not expressly repealed in the first schedule to this Act, it shall not be deemed to have been impliedly repealed by reason of its being inconsistent with the provisions of this Code. Saving of special procedure.

In

References to Code of Criminal Procedure.

In every Act passed before this Act, in which reference is made to the Code of Criminal Procedure, such reference shall be taken to be made to this Act.

References in former Acts.

In every Act passed before this Act, the expressions "Officer exercising the powers of a Magistrate," "Subordinate Magistrate, First Class," and "Subordinate Magistrate, Second Class," shall, respectively, be deemed to mean "Magistrate of the First Class," "Magistrate of the Second Class," and "Magistrate of the Third Class," as defined in this Act.

Certain specified references.

The references made in the enactments specified in column one of the fifth schedule hereto, to the sections of the former Code of Criminal Procedure specified in column two of the said schedule, shall be deemed to be made to the sections of this Code directed in the third column of the said schedule to be substituted for the said sections in column two.

Notifications published and orders made under any section of any Act hereby repealed, shall be deemed to have been published and made under the corresponding section of this Act.

Pending cases.

3. Cases pending in any Criminal Court when this Act comes into force shall be decided as far as may be according to the procedure provided in this Act.

Definitions.

4. In this Act the following words and expressions have the following meanings, unless a different intention appears from the context:—

"Special law."

"Special law" means a law applicable to a particular subject:

"Local law."

"Local law" means a law applicable to a particular part of British India:

"Investigation."

"Investigation" includes all the proceedings by the Police, authorized by this Act, for the collection of evidence:

"Inquiry."

"Inquiry" includes any inquiry which may be conducted by a Magistrate or Court under this Act:

"Inquired into."

"Inquired into" means and includes every proceeding preliminary to trial:

"Trial"

"Trial" means the proceedings taken in Court after a charge has been drawn up, and includes the punishment of the offender: "Trial."

It includes the proceedings under chapters XVI and XVIII, from the time when the accused appears in Court:

"Judicial Proceeding" means any proceeding in the course of which evidence is or may be taken, or in which any judgment, sentence or final order is passed on recorded evidence: "Judicial Proceeding."

"Written" includes "printed," "lithographed," "photographed" and "engraved:" "Written."

"Criminal Court" means and includes every Judge or Magistrate, or body of Judges or Magistrates, inquiring into or trying any criminal case or engaged in any judicial proceeding: "Criminal Court."

"Province" means the territories under the government or administration of any Local Government: "Province."

"Presidency Town" means the local limits of the ordinary original civil jurisdiction of the High Courts of Calcutta, Madras or Bombay: "Presidency Town."

"High Court" means, in reference to proceedings against European British subjects, or persons jointly charged with European British subjects, the High Courts of Calcutta, Madras, Bombay, the High Court for the North-Western Provinces, and the Chief Court of the Panjáb: "High Court."

In other cases "High Court" means the highest Court of criminal appeal or revision in any province:

"Session Case" means and includes all cases specified in column seven of the fourth schedule to this Act as cases triable by a Court of Session, and all cases which Magistrates commit to a Court of Session, although they might have tried them themselves; "Session Case."

In the case of offences created by special and local laws, "Session Case" means cases which are triable by the Court of Session, or which the Magistrate commits to the Court of Session, though he might have tried them himself:

"Magistrate's

"Magistrate's Case."

"Magistrate's Case" means and includes all cases specified in column seven of the fourth schedule to this Act as cases triable by Magistrates, and all cases which Magistrates try themselves, although they might have committed them for trial to a Court of Session :

"Cognizable Offence or Case."

"Cognizable Offence or Case" means an offence for, or a case in, which a Police officer may, by any law in force for the time being, arrest without warrant :

"Non-cognizable Offence or Case."

"Non-cognizable Offence or Case" means an offence for, or a case in, which a Police officer may not arrest without warrant:

"Summons Case."

"Summons Case" means an offence of the class described in section one hundred and forty-eight :

"Warrant Case."

"Warrant Case" means an offence of the class described in section one hundred and forty-nine:

"Bailable Offence or Case."

"Bailable Offence or Case" means an offence for, or a case in, which bail may be taken under the fourth schedule to this Act, or by any other law in force for the time being:

"Non bailable Offence or Case."

"Non-bailable Offence or Case" means an offence for, or a case in, which bail may not be taken under the fourth schedule to this Act, or by any law in force for the time being.

PART II.

CONSTITUTION AND POWERS OF THE CRIMINAL COURTS.

CHAPTER II.

OF CRIMINAL COURTS.

Grades of Criminal Courts.

5. Besides the High Courts, there shall be four grades of Criminal Courts in British India—

I.—The Court of the Magistrate of the Third Class:
II.—The Court of the Magistrate of the Second Class:
III.—The Court of the Magistrate of the First Class:
IV.—The Court of Session.

What officers to hold inquiries.

6. All inquiries by Magistrates shall be held according to the provisions hereinafter contained.

7. All

7. All criminal trials in British India shall be held before the Courts specified in the fourth schedule to this Act, or before the Courts specified in any law by which the offence is created, according to the provisions hereinafter contained. What Courts to try offences.

8. Offences punishable under any law, other than the Indian Penal Code, containing no distinct provision as to the Court or officer before which or before whom they are to be tried, may be inquired into and tried, according to the provisions hereinafter contained, by the Criminal Courts appointed under this Act. But no such Court shall award any sentence in excess of its powers. Offences under local and special laws.

A Magistrate of the third class shall not try any such offence unless it is punishable with less than one year's imprisonment, nor shall a Magistrate of the second class try any such offence unless it is punishable with less than three years' imprisonment.

9. All Judges of Criminal Courts, other than the High Courts, and Magistrates shall be appointed and may be removed by the Local Government; but such officers as are now appointed or removed by the Government of India shall continue to be so appointed or removed. Appointment and removal of Judges and Magistrates.

10. All existing Judges and Magistrates shall be deemed to have been appointed under this Act. Saving of existing incumbents.

11. Offences committed by European British subjects shall be inquired into and tried according to the provisions of chapter VII and not otherwise; but the other provisions of this Act shall apply to all persons without distinction of race unless a contrary intention is expressed. Inquiry and trial in case of European British subjects.

CHAPTER III.

Of Courts of Session.

12. Every province shall be divided into Sessions Divisions. Sessions Divisions.

13. The Local Government shall have power to alter, from time to time, the number or extent of such Divisions. Power to alter Divisions.

14. The

Existing local jurisdictions of Sessions Courts to be Sessions Divisions.

14. The existing local jurisdictions of Courts of Session shall be Sessions Divisions, unless and until they are so altered.

One Court for each Division.

15. There shall be a Court of Session in every Sessions Division :

It shall have power to try any offence and to pass upon any offender any sentence authorized by law, subject to the provisions of this Act.

Appointment and powers of Sessions Judges.

16. There shall be a Sessions Judge for every Sessions Division. The Sessions Judge shall exercise all the powers of the Court of Session in his Sessions Division.

Appointment and powers of Additional and Joint Sessions Judges.

17. The Local Government may appoint Additional Sessions Judges or Joint Sessions Judges, who shall exercise all the powers of a Court of Session in one or more Sessions Divisions in which they may be directed to act, but shall try such cases only as the Local Government directs them to try, or as the Sessions Judge of the Division makes over to them for trial.

Appointment and powers of Assistant Sessions Judges.

18. The Local Government may also appoint Assistant Sessions Judges, who shall exercise all the powers of a Court of Session in the Sessions Division to which they may be attached, except the power of hearing appeals, and of passing sentences of death, or transportation, or imprisonment for more than seven years; but they shall try those cases only which the Sessions Judge of the Sessions Division makes over to them either by general orders or by a special order:

Any sentence of more than three years' imprisonment passed by an Assistant Sessions Judge shall be subject to confirmation by the Sessions Judge. The Sessions Judge may either confirm, modify or annul such sentence of the Assistant Sessions Judge.

CHAPTER IV.

CHAPTER IV.

OF MAGISTRATES AND THEIR POWERS.

19. Magistrates shall be either—

Magistrates of the First Class,
Magistrates of the Second Class, or
Magistrates of the Third Class.

Magistrates to be of three classes.

20. The powers of Magistrates in respect to the trial of offences and to passing sentences on persons convicted of them are as follows :—

Sentences which Magistrates may pass.

Magistrates of the First Class may pass the following sentences :—

Powers of Magistrates, First Class.

Imprisonment not exceeding the term of two years (including such solitary confinement as is authorized by law);

Fine to the extent of one thousand rupees;

Whipping.

Magistrates of the Second Class may pass the following sentences :—

Powers of Magistrates, Second Class.

Imprisonment not exceeding six months (including such solitary confinement as is authorized by law);

Fine not exceeding two hundred rupees;

Whipping.

Magistrates of the Third Class may pass the following sentences :—

Powers of Magistrates, Third Class.

Imprisonment not exceeding one month;

Fine not exceeding fifty rupees.

A Magistrate of the Third Class may not pass a sentence of solitary confinement, or of whipping.

Any Magistrate may pass any lawful sentence, combining any of the sentences which he is authorized by law to pass.

EXPLANATION.—A Magistrate may award imprisonment in default of payment of fine, in addition to the full term of imprisonment which, under this section, he is competent to award.

21. In

Powers conferred upon Magistrates

21. In addition to the powers given in section twenty, the following powers are conferred, as hereinafter provided, upon Magistrates by this Act:—

(1.) Power to make over cases to a Subordinate Magistrate (s. 44).

(2.) Power to pass a sentence on proceedings recorded by a Subordinate Magistrate (s. 46).

(3.) Power to withdraw cases and to try or refer them for trial (s. 47).

(4.) Power to withdraw or refer appeals from convictions by Magistrates of the second and third classes (s. 47).

(5.) Power to arrest an accused person found in Court (s. 104).

(6.) Power to order the Police to investigate an offence (s. 110).

(7.) Power to record confessions or statements during a Police investigation (s. 122).

(8.) Power to authorize detention of a person during a Police investigation (s. 124).

(9.) Power to hold an inquest (s. 135).

(10.) Power to entertain complaints and receive Police reports (s. 141).

(11.) Power to entertain cases without complaint (s. 142).

(12.) Power to commit for trial (s. 143).

(13.) Power to issue process for person within jurisdiction who has committed an offence outside Magistrate's local jurisdiction (s. 157).

(14.) Power to direct warrant to landholder (s. 162).

(15.) Power to arrest offender in presence of Magistrate (s. 166).

(16.) Power to endorse warrant, or to order the removal of an accused person arrested under a warrant (ss. 168 and 170).

(17.) Power

(17.) Power to issue proclamation in cases judicially before him (ss. 171 and 353).

(18.) Power to attach and sell property in cases judicially before him (ss. 172 and 354).

(19.) Power to try summarily (s. 222).

(20.) Power to hear appeals from convictions by Magistrates of the second and third classes (s. 266).

(21.) Power to call for proceedings (ss. 295 and 296).

(22.) Power to quash convictions in certain cases (s. 328).

(23.) Power to issue a search-warrant for letter in Post Office (s. 369).

(24.) Power to endorse a search-warrant and order delivery of thing found (ss. 372, 373 and 376).

(25.) Power to issue search-warrant otherwise than in the course of an inquiry (s. 377).

(26.) Power to revise bail orders (s. 398).

(27.) Power to sell perishable property of a suspicious character (s. 415).

(28.) Power to sell suspicious or stolen property (s. 417).

(29.) Power to demand security to keep the peace (s. 491).

(30.) Power to discharge recognizances to keep the peace (s. 500).

(31.) Power to demand security for good behaviour (ss. 504 and 505).

(32.) Power to discharge person bound to be of good behaviour (s. 511).

(33.) Power to issue order to prevent obstruction, &c. (s. 518).

(34.) Power to issue order prohibiting repetition of nuisance (s. 519).

(35.) Power to make orders, &c., in local nuisance cases (s. 521).

(36.) Power

(36.) Power to make orders, &c., in possession cases (s. 530).

(37.) Power to make orders of maintenance (s. 536).

Powers common to all Magistrates.

22. Magistrates of all classes shall, as such, have the following powers :—

(1.) Power to arrest an accused person found in Court (s. 104).

(2.) Power to record confessions or statements during a Police investigation (s. 122).

(3.) Power to authorize detention of a person during a Police investigation (s. 124).

(4.) Power to arrest offender in the presence of Magistrate (s. 166).

(5.) Power to endorse warrant, or to order the removal of an accused person arrested under a warrant (ss. 168 and 170).

(6.) Power to issue proclamation in cases judicially before him (ss. 171 and 353).

(7.) Power to attach and sell property in cases judicially before him (ss. 172 and 354).

(8.) Power to endorse a search-warrant and order delivery of thing found (ss. 372, 373 and 376).

(9.) Power to sell perishable property of a suspicious character (s. 415).

Powers which Local Government and Magistrate of the District may confer on Magistrates of the Third Class.

23. In addition to the powers mentioned in section twenty-two, a Magistrate of the Third Class may be invested with the following powers :—

(*a.*) By the Local Government—

(1.) Power to hold inquests (s. 135).

(2.) Power to entertain complaints of offences in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.) Power to commit for trial (s. 143).

(4.) Power to issue order to prevent obstruction, &c. (s. 518).

(5.) Power

(5.) Power to issue order prohibiting repetition of nuisance (s. 519).

(*b.*) By the Magistrate of the District—

(1.) Power to hold inquests (s. 135).

(2.) Power to entertain complaints of offences in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.) Power to issue order to prevent obstruction, &c. (s. 518).

(4.) Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of the Second Class.

24. Magistrates of the Second Class shall, as such, in addition to the powers mentioned in section twenty-two, have the following power:—

(1.) Power to order the Police to investigate an offence in which the Magistrate has jurisdiction to try or to commit for trial (s. 110).

Powers which may be conferred on Magistrates of the Second Class.

25. In addition to the powers given and referred to in section twenty-four, a Magistrate of the Second Class may be invested with the following powers:—

(*a.*) By the Local Government—

(1.) Power to hold inquests (s. 135).

(2.) Power to entertain complaints and receive Police reports in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.) Power to entertain without complaint cases which he has jurisdiction to try or to commit for trial (s. 142).

(4.) Power to commit for trial (s. 143).

(5.) Power to issue order to prevent obstruction, &c. (s. 518).

(6.) Power to issue order prohibiting repetition of nuisance (s. 519).

(*b.*) By the Magistrate of the District—

(1.) Power to hold inquests (s. 135).

(2.) Power

(2.) Power to entertain complaints and receive Police reports in cases in which he has jurisdiction to try or to commit for trial (s. 141).

(3.) Power to issue order to prevent obstruction, &c. (s. 518).

(4.) Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of the First Class.

26. Magistrates of the First Class shall, as such, in addition to the powers mentioned in sections twenty-two and twenty-four, have the following powers:—

(1.) Power to commit for trial (s. 143).

(2.) Power to issue search-warrant otherwise than in the course of an inquiry (s. 377).

(3.) Power to demand security to keep the peace (s. 491).

(4.) Power to demand security for good behaviour (ss. 504 and 505).

(5.) Power to make orders, &c., in possession cases (s. 530).

(6.) Power to make orders of maintenance (s. 536).

Powers which may be conferred on Magistrates of the First Class.

27. In addition to the powers given and referred to in section twenty-six, a Magistrate of the First Class may be invested with the following powers:—

(*a.*) By the Local Government—

(1.) Power to make over cases taken up on complaint, &c., to a Subordinate Magistrate (s. 44).

(2.) Power to hold inquests (s. 135).

(3.) Power to entertain complaints of offences, and receive Police reports (s. 141).

(4.) Power to entertain cases without complaint (s. 142).

(5.) Power to issue process for person within jurisdiction who has committed an offence outside Magistrate's local jurisdiction (s. 157).

(6.) Power

(6.) Power to try summarily (s. 222).

(7.) Power to hear appeals from convictions by Magistrates of the second and third classes (s. 266).

(8.) Power to sell suspicious or stolen property (s. 417).

(9.) Power to issue order to prevent obstruction, &c. (s. 518).

(10.) Power to issue order prohibiting repetition of nuisance (s. 519).

(11.) Power to make orders, &c., in local nuisance cases (s. 521).

(*b.*) By the Magistrate of the District—

(1.) Power to hold inquests (s. 135).

(2.) Power to entertain complaints of offences, and receive Police reports (s. 141).

(3.) Power to issue order to prevent obstruction, &c. (s. 5 8).

(4.) Power to issue order prohibiting repetition of nuisance (s. 519).

Powers of Magistrates of Divisions of Districts.

28. Magistrates who, under the provisions of section forty, are Magistrates of Divisions of Districts shall, as such, have all the powers given to Magistrates of the First Class, and referred to in section twenty-six, and, in addition, shall have the following powers:—

(1.) Power to make over cases to a Subordinate Magistrate (s. 44).

(2.) Power to pass sentence on proceedings recorded by a Subordinate Magistrate (s. 46).

(3.) Power to withdraw cases, but not appeals, and to try or refer them for trial (s. 47).

(4.) Power to hold inquests (s. 135).

(5.) Power to entertain complaints of offences, and receive Police reports (s. 141).

(6.) Power to entertain cases without complaint (s. 142).

(7.) Power

(7.) Power to issue process for person within jurisdiction who has committed an offence outside Magistrate's local jurisdiction (s. 157).

(8.) Power to sell suspicious or stolen property (s. 417).

(9). Power to issue order to prevent obstruction, &c. (s. 518).

(10). Power to issue order prohibiting repetition of nuisance (s. 519).

(11). Power to make orders in local nuisance cases (s. 521).

Provided that, if a Magistrate of a Division of a District exercise the powers of a Magistrate of the Second Class, he shall not have power to demand security to be of good behaviour.

Powers which Local Government may confer on Magistrates of Divisions of Districts.

29. In addition to the powers given and referred to in section twenty-eight, the Local Government may confer on a Magistrate of a Division of a District, exercising the powers of a Magistrate of the First Class, the following powers:—

(1.) Power to try summarily. (s. 222).

(2.) Power to hear appeals from convictions by Magistrates of the second and third classes (s. 266).

Powers of Magistrates of Districts.

30. Magistrates of Districts may, as such, exercise all the powers mentioned in section twenty-one.

Saving of other powers.

31. All other powers given by this Act or by any other law in force may be exercised by the officers or Courts to whom or to which they are given.

Irregularities which do not vitiate proceedings.

32. If any Magistrate, not being empowered by law in that behalf, does any one of the following things:—

(1.) If he makes over a case, taken up on complaint, &c., to another Magistrate,

(2.) If he withdraws a case and tries it himself, or refers a case for trial,

(3.) If he orders the Police to investigate an offence,

(4.) If

(4.) If he holds an inquest,

(5.) If he entertains a complaint or receives a Police report,

(6.) If he issues process for the apprehension of a person within his local jurisdiction who has committed an offence outside his local jurisdiction,

(7.) If he issues a search-warrant otherwise than in the course of an inquiry,

his proceedings shall not be set aside on the ground that he was not so empowered.

When irregular commitments may be validated.

33. If any Magistrate, not being empowered by law, commits an accused person to take his trial before a Court of Session or High Court, the Court to which the commitment was made may, after perusal of the proceedings, accept the commitment if it considers that the accused person has not been prejudiced, unless the accused person has objected to the jurisdiction of the committing Magistrate during the inquiry and before the order of commitment.

If such Court considers that the accused person was prejudiced, or if he objected to the jurisdiction of the committing Magistrate during the inquiry and before the order of commitment, it shall quash the commitment, and direct a fresh inquiry by a competent Magistrate.

Irregularities which render proceedings void.

34. If any Magistrate, not being empowered by law in that behalf, does any of the following things, his proceedings shall be void; that is to say:—

(1.) If he passes a sentence on proceedings recorded by another Magistrate,

(2.) If he entertains a case without complaint,

(3.) If he attaches and sells property under section one hundred and seventy-two,

(4.) If he tries an offender summarily,

(5.) If he decides an appeal,

(6.) If he calls for proceedings,

(7.) If he issues a search-warrant for a letter in the Post Office,

(8.) If

(8.) If he revises a bail order,

(9.) If he sells suspicious or stolen property under section four hundred and seventeen,

(10.) If he demands security to keep the peace,

(11.) If he discharges recognizances to keep the peace,

(12.) If he demands security for good behaviour,

(13.) If he discharges a person lawfully bound to be of good behaviour,

(14.) If he makes an order in a local nuisance case,

(15.) If he issues an order to prevent an obstruction,

(16.) If he prohibits the repetition of a nuisance,

(17.) If he makes an order in a possession case, or

(18.) If he makes an order for maintenance.

THE MAGISTRATE OF THE DISTRICT.

Magistrate of the District.

35. In every district there shall be a Magistrate of the First Class appointed by the Local Government, who shall be called the Magistrate of the District and shall exercise throughout his district all the powers of a Magistrate.

Powers with which Deputy Commissioners and chief executive officers of District may be invested.

36. In the territories subject to the Lieutenant-Governor of the Panjáb, and in the territories administered by the Chief Commissioners of Oudh, the Central Provinces and British Burma, in Coorg, and in those parts of the other provinces in which there are Deputy Commissioners or Assistant Commissioners, the Local Government may invest the Deputy Commissioner, or other chief officer charged with the executive administration of the district in criminal matters, with power to try as a Magistrate all offences not punishable with death, and to pass sentence of imprisonment for a term not exceeding seven years, including such solitary confinement as is authorized by law, or of fine, or of whipping, or any combination of these punishments authorized by law; but any sentence of upwards of three years' imprisonment passed

passed by any such officer shall be subject to the confirmation of the Sessions Judge to whom such Deputy Commissioner is subordinate. Such Sessions Judge may either confirm, modify or annul any sentence referred for confirmation.

SUBORDINATE MAGISTRATES.

37. The Local Government may appoint as many other persons, besides the Magistrate of the District, as it thinks fit, to be Magistrates of the first, second or third class in the District. Subordinate Magistrates

All such Magistrates shall be subordinate to the Magistrate of the District, but neither the Magistrate of the District nor the Subordinate Magistrates shall be subordinate to the Sessions Judge, except to the extent and in the manner provided by this Act.

The Local Government shall not have power to direct that any Magistrate may try any offence which Magistrates of his class are not authorized to try, or pass any sentence which Magistrates of his class are not authorized to pass by section twenty. Proviso.

38. The Local Government may, by notification in the official Gazette, prescribe the local limits of the jurisdiction of a Magistrate of the District, and may, by such notification, from time to time alter such local limits. Power to determine local jurisdiction of a Magistrate of District.

39. The Local Government may divide any district into divisions, and from time to time alter their limits. All existing divisions of districts, which are now usually put under the charge of a Magistrate, shall be divisions until their limits are so altered. Division of districts into divisions Existing divisions preserved.

40. The Local Government may place any Magistrate of the first or second class in charge of a division of a district. Local Government may put Magistrate in charge of division.

Such Magistrate shall be called a Magistrate of a Division of a District, and shall exercise the powers conferred on him under this Act, or under any law for the time being in force, subject to the control of the Magistrate of the District.

The

Delegation of power to Magistrate of District.

The Local Government may, if it thinks fit, delegate its powers under this section to the Magistrate of the District.

Subordination of officers to Magistrate of Division of District.

41. Every Magistrate in a division of a district shall be subordinate to the Magistrate of the Division of the District, subject, however, to the general control of the Magistrate of the District.

"Special Magistrates."

42. The Local Government may confer upon any person all or any of the powers of a Magistrate of the first, second or third class, in respect to particular offences, or to a particular class or particular classes of offences, or in regard to offences generally, in any part of a district, or in any one or more districts, subject to such Local Government.

Such Magistrates shall be called "Special Magistrates."

Mode of conferring powers.

43. In conferring powers under this Act, the Local Government may empower persons specially by name, or classes of officials generally by their official titles.

Transfer of criminal cases to Subordinate Magistrate.

44. The Magistrate of the District, or any Magistrate of a Division of a District, may make over any criminal case taken up by him on suspicion, or brought before him on complaint or on report by the Police, for inquiry or trial to any Magistrate subordinate to him, to be dealt with to the extent of the powers with which the Subordinate Magistrate may have been invested under the provisions hereinbefore contained.

The Magistrate making the reference may, if the case was brought forward on complaint, before such reference, examine the complainant as prescribed in this Act; but if he does not do so, the Magistrate to whom the case is referred shall proceed as if the complaint had been made to him.

The order of reference shall be recorded in a proceeding, and, if the case has been brought forward on the report of a Police officer, shall be recorded on such report; and all processes issued for causing the attendance of the accused person or the witnesses shall direct them to attend before the Magistrate to whom the case has been referred.

The

The Magistrate making the reference may, if he thinks proper, retransfer to his own file the case referred under paragraph one of this section, and when he has done so, and not before, may proceed therein.

Procedure of Magistrate in cases beyond his jurisdiction.

45. If, in the course of a proceeding before a Magistrate, the evidence appears to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try,

or for which he is not competent to commit the accused person for trial,

he shall stay proceedings and submit the case to any Magistrate to whom he is subordinate, or to such other Magistrate, having jurisdiction, as the Magistrate of the District directs.

The Magistrate to whom the case is submitted shall either try the case himself, or refer it to any officer subordinate to him, having jurisdiction; or he may commit the accused person for trial.

In any such case, such Magistrate or other officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

But any statement or confession duly made by an accused person, in the course of the proceedings before the Magistrate before whom the case was originally brought, shall be admissible as evidence in all subsequent proceedings.

Procedure when Magistrate cannot pass sentence sufficiently severe.

46. Whenever a Magistrate of the second or third class, having jurisdiction, finds an accused person guilty, and considers that he ought to receive a more severe punishment than such Magistrate is competent to adjudge, he may record the finding and, if sentence has not been passed, may submit his proceedings, and forward the accused person, to the Magistrate of the District, or to the Magistrate of the Division of the District, to whom he is subordinate.

The Magistrate to whom the proceedings are submitted may, if he thinks fit, examine the parties, and recall and examine any witness who has already given evidence in the case; and may summon any further witnesses

witnesses and take their evidence; and shall pass such judgment, sentence or order in the case as he deems proper, and as is according to law: Provided that he shall not exceed the powers ordinarily exercisable by him under section twenty of this Act.

Magistrate may, in the first instance, commit accused for trial before Court of Session.

The Magistrate who originally dealt with the case may, if he is empowered to hold inquiries into cases triable by the Court of Session and to commit persons to take their trial before such Court, instead of submitting his proceedings to another Magistrate, commit the accused person for trial before the Court of Session instead of finding him guilty.

Magistrate may withdraw or refer cases.

47. Magistrates of Districts and Magistrates of Divisions of Districts may respectively withdraw any criminal case from any Magistrate subordinate to them, and may inquire into or try the case themselves, or refer it for inquiry or trial to any other such Magistrate competent to inquire into or try the same.

Magistrates of Districts may withdraw any criminal appeal from any Subordinate Magistrate who has been authorized to hear appeals from the convictions of Magistrates of the second and third classes, and may refer criminal appeals to any competent Magistrate subordinate to them.

Local Government may empower Magistrates of Districts to withdraw classes of cases.

48. The Local Government may authorize the Magistrate of the District to withdraw from the Magistrates subordinate to him, whether in charge of divisions of districts or not, either such classes of cases as he thinks proper, or particular classes of cases.

Local Government may authorize Magistrate of District to distribute business by localities.

49. The Magistrate of the District, under the general or special orders of the Local Government, may authorize any Magistrate subordinate to him to entertain complaints arising within certain local limits, and may from time to time vary such orders: Provided that no such Magistrate shall be authorized to entertain any complaint of any offence which he is not competent to try or to commit for trial.

MAGISTRATES'

Magistrates' Benches.

50. The Local Government may direct any two or more Magistrates to sit together as a bench, and may invest such bench with the powers of a Magistrate of the first, second or third class, and direct it to try such cases, or such classes of cases, only, and within such limits, as it thinks fit.

Power to invest Magistrates sitting as a bench with certain powers.

51. In the absence of any special direction as to the powers of any such bench, it shall have the powers of a Magistrate of the highest class to which any one of its members belongs, and who is present taking part in the proceedings.

Powers exercisable by such bench in absence of special directions.

52. The Magistrate of the District may, subject to the general orders of the Local Government, make rules for the guidance of Magistrates' benches in his district.

Magistrate of the District may frame rules for guidance of benches.

Such rules shall not be inconsistent with the provisions of this Act, and may deal with the following subjects:—

The classes of cases to be tried;

The times and places of sitting;

The constitution of the bench for conducting trials;

The mode of settling differences of opinion which may arise between the Magistrates in Session.

53. The Magistrate of the District may, subject to the like orders, vary or annul, from time to time, any rules made by himself or by his predecessor under the last preceding section.

Magistrate of District may vary or annul rules made under section 52.

Continuance and Alteration of Powers.

54. The Local Government may vary or cancel any powers with which any person may have been invested under this Act or any enactment hereby repealed.

Powers may be varied or cancelled.

55. When, in consequence of the office of a Magistrate of the District becoming vacant, any officer succeeds temporarily to the chief executive administration of the district in criminal matters, such officer shall, pending the orders of the Local Government,

Powers of officers temporarily succeeding to vacancies in office of Magistrate of District.

ment, exercise all the ordinary powers, and perform all the duties, of the Magistrate of the District.

Continuance of powers of officers transferred.

56. Whenever any person holding an office in the service of Government, who has been invested with any powers, under this Act or any enactment hereby repealed, in any district, is transferred to an equal or higher office of the same nature within another district, he shall, unless the Local Government otherwise directs, continue to exercise the same powers in the district to which he is so transferred.

CHAPTER V.

OF PUBLIC PROSECUTORS.

Appointment of public prosecutor.

57. The Local Government may, if it thinks proper, appoint officers to be called public prosecutors.

Appointment may be for particular case or generally.

58. Public prosecutors may be appointed either for a particular case, or for particular classes of cases, or for all cases throughout the whole or any part of any province.

Private persons may not act as prosecutors or employ counsel without permission of the Court.

59. Any Court inquiring into or trying any case may permit any person to conduct the case as prosecutor; but no person shall be entitled to do so without such permission. Any person permitted to prosecute may conduct the prosecution personally or by counsel.

He may plead in all Courts in cases under his charge. Barristers, &c., privately instructed, to be under his direction.

60. The public prosecutor may appear and plead, without any written authority, before all Courts in which any case under his charge is under inquiry, trial, or appeal; and if any private person instructs any barrister, attorney, pleader or vakíl to prosecute any person in any case under the charge of the public prosecutor, the public prosecutor shall have the management of the case, and such other person shall act under his directions.

Effect of withdrawal of charge by public prosecutor.

61. The public prosecutor may, with the consent of the Court, withdraw any charge against any person in any case of which he is in charge; and upon such withdrawal, if it is made whilst the case is under inquiry, the accused person shall be discharged. If it

it is made when he is under trial, the accused person shall be acquitted.

62. If an appeal is brought in any case in which any person prosecuted by the public prosecutor has been convicted, notice of such appeal and a copy of the grounds of appeal shall be given to such public prosecutor by the Appellate Court, and the Court shall also give him due notice of the time and place at which such appeal is to be heard.

Notice to public prosecutor of appeal in cases prosecuted by him.

CHAPTER VI.

THE PLACE OF INQUIRY AND TRIAL.

63. Every offence shall be inquired into, and, if tried by a Magistrate, shall be tried in the district in which it was committed. If tried by a Court of Session, it shall be tried by that Court of Session to which the Magistrate commits.

Place for inquiry and trial of offence.

Magistrates shall ordinarily commit to the Court of Session for the Sessions Division in which the district to which they are appointed is situated; but the Local Government may direct that any cases or class of cases committed in any district may be tried in any Sessions Division.

EXPLANATION.—Offences created by local and special laws may be inquired into and tried in any place where the inquiry or trial might be held under the provisions of those laws or of this Code.

64. Whenever it appears to the High Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses, it may direct the transfer of any particular criminal case or appeal, or class of cases or appeals, from a Criminal Court subordinate to its authority, to any other such Criminal Court of equal or superior jurisdiction,

High Court may transfer case, or direct trial in district other than that in which offence was committed.

or may order that any offence shall be inquired into or tried in any district or division of a district, other than that in which the offence has been committed, or that it shall be tried before itself. If the High Court

Court withdraws any case from any other Court for trial before itself, it shall observe the same procedure which that Court would have observed if the case had not been so withdrawn:

Provided that the orders issued under this section shall not be repugnant to orders issued by the Local Government under the last preceding section.

Accused triable in district where act is done, or where consequence ensues.

65. When a person is accused of the commission of any offence by reason of anything which has been done, or of anything which has been omitted to be done, and of any consequence which has ensued, such offence may be inquired into or tried in any district in which any such thing has been done, or omitted to be done, or any such consequence has ensued.

Illustrations.

(*a.*) A is wounded in the district of X and dies in district Z. The offence of the culpable homicide of A may be inquired into and tried either in X or Z.

(*b.*) A is wounded in the district of X and is, during twenty days, unable to follow his ordinary pursuits in the district Y, where he is being treated. The offence of causing grievous hurt to A may be inquired into and tried either in X or Y.

(*c.*) A is put in fear of injury in district X, and is thereby induced, in the district of Y, to deliver property to the person who put him in fear. The offence of extortion committed on A may be inquired into and tried either in district X or district Y.

Place for trial where act is offence by reason of relation to other offence.

66. When an act is an offence by reason of its relation to any other act which is also an offence, a charge of the first mentioned offence may be inquired into and tried, either in the district in which it happened, or in the district in which the offence with which it was so connected happened.

Illustrations.

(*a.*) A charge of abetment may be inquired into and tried, either in the district in which the abetment was committed, or in the district in which the offence abetted was committed.

(*b.*) A charge of receiving or retaining stolen goods may be inquired into and tried, either in the district in which the goods were stolen, or in any district in which any of them were at any time dishonestly received or retained.

(*c.*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into and tried in the district

district in which the wrongful concealing or in the district in which the kidnapping took place.

(*d.*) A, B, C and others combine together to abet the waging of war against the Queen. Any of the conspirators may be tried in any district in which acts were done by any one of the persons with whom he or they conspired, in pursuance of the original concerted plan and with reference to the common object.

67. When it is uncertain in which of several districts an offence was committed; or

Place for inquiry or trial where scene of offence is uncertain;

where an offence is committed partly in one district and partly in another; or

or not in one district only;

where the offence is a continuing one and continues to be committed in more districts than one; or

or offence is continuing;

where it consists of several acts done in different districts,

or consists of several acts.

it may be inquired into and tried in any one of any of such districts.

Illustrations.

(*a.*) An offence committed on a journey or voyage may be inquired into and tried in any district through which the person by whom the offence was committed, or the person against whom, or the thing in respect of which, the offence was committed, passed in the course of that journey or voyage.

(*b.*) An offence committed near the boundary between two districts may be inquired into and tried in either.

(*c.*) A charge of being a thug, or of having belonged to a gang of dákáits, may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*d.*) A charge of having escaped from custody may be inquired into and tried wherever the person charged happens to be when the charge is made.

(*e.*) A charge of criminal misappropriation, or of criminal breach of trust, may be inquired into and tried, either in the district in which the property which is the subject of the offence was received, or in the district or districts in which the whole or any part of it has been misappropriated, or where the offence of criminal breach of trust has been wholly or partly committed.

(*f.*) A steals a buffalo from B in district W, and personally, or by his agents, conveys the buffalo through districts X and Y into district Z. This is a continuing offence, and A may be tried either in W, X, Y or Z.

68. The offence of murder as a thug, dákáití or dákáití with murder may be inquired into and tried wherever the person accused may happen to be when arrested,

Murder as a thug, dákáit or dákáití with murder.

arrested, or in any other district in which he might be tried under any other provision of this Code, or any other law relating to the trial of such offence.

High Court to decide, in case of doubt, district where inquiry shall take place.

69. Whenever any doubt arises as to the district in which any offence should be inquired into or tried, the High Court within whose jurisdiction the offender is apprehended may decide in which district the offence shall be inquired into or tried.

Effect, on sentence, of holding investigation, inquiry or trial in wrong district.

70. No sentence or order of any Criminal Court shall be liable to be set aside merely on the ground that the investigation, inquiry or trial was held in a wrong district or Sessions Division, unless it is proved, or appears, that the accused person was actually prejudiced in his defence, or the prosecutor in his prosecution, by such error, in either of which cases a new trial may be ordered.

CHAPTER VII.

Of Criminal Jurisdiction over European British Subjects.

"European British subjects."

71. The expression "European British subjects" means in this Act—

(1.) All subjects of Her Majesty, born, naturalized or domiciled in the United Kingdom of Great Britain and Ireland, or in any of the European, American, or Australian Colonies or Possessions of Her Majesty, or in the Colony of New Zealand, or in the Colony of the Cape of Good Hope or Natal.

(2.) The children and grandchildren of any such person by legitimate descent.

Officers who may inquire into and try offences committed by European British subjects.

72. No Magistrate, or Justice of the Peace, or Sessions Judge shall have jurisdiction to inquire into a complaint or try a charge against a European British subject, unless he is himself a European British subject.

No Magistrate shall have such jurisdiction unless he is a Magistrate of the first class and a Justice of the Peace.

No Justice of the Peace shall have such jurisdiction unless he is a Magistrate of the first class.

73. Any

73. Any Magistrate who is authorized by law to entertain complaints may entertain, against European British subjects, such complaints as he is authorized to entertain in the case of other persons.

Who may hear complaints and issue process.

If he issues any process for the purpose of compelling the appearance of a European British subject accused of an offence, such process must be returnable before a Magistrate competent to inquire into or try the case.

74. Any competent Magistrate may inquire into complaints of any offence made against a European British subject.

Magistrates of the first class, being European British subjects and Justices of the Peace, may inquire into complaints against European British subjects.

If the offence complained of is a Magistrate's case, and can, in the opinion of such Magistrate, be adequately punished by him, he shall proceed as is hereinafter in this Code directed, according to the nature of the offence; and, on conviction, may pass on such European British subject any sentence warranted by law, not exceeding three months' imprisonment, or fine up to one thousand rupees, or both.

When such Magistrate may try, and extent of his jurisdiction.

75. When the offence complained of cannot, in the opinion of such Magistrate, be adequately punished by him, and is not punishable with death or with transportation for life, such Magistrate shall, if he thinks that the accused person ought to be committed, commit him to the Court of Session.

When commitment is to be to Court of Session.

When the offence complained of is punishable with death or transportation for life, the commitment shall be to the High Court.

When commitment is to be to High Court.

76. Sessions Judges or Additional Sessions Judges, and, when specially empowered in that behalf by the Local Government, Assistant Sessions Judges who are European British subjects and who have been Assistant Sessions Judges for not less than three years, may

Jurisdiction of Court of Session.

may pass on European British subjects any sentence warranted by law, not exceeding one year's imprisonment, or fine, or both.

When Sessions Judge finds his powers inadequate.

If, at any stage of the proceedings, the Sessions Judge thinks the offence cannot be adequately punished by such a sentence, he shall record his opinion to that effect and transfer the case to the High Court. The Sessions Judge may either himself bind over, or direct the committing Magistrate to bind over, the complainant and witnesses to appear before such High Court.

Procedure when Sessions Judge is not a European British subject.

77. If the Sessions Judge of the Sessions Division within which the offence is ordinarily triable is not a European British subject, the case shall be reported by the committing Magistrate for the orders of the High Court.

Mode of conducting trials by Court of Session.

78. Trials of European British subjects before the Court of Session shall be conducted according to the provisions of chapter XIX.

In trials with assessors not less than half the number of assessors, and in trials by jury not less than half the number of jurors, shall be European British subjects.

Appeal from conviction of such subject by Magistrate.

79. Any European British subject who is convicted by a competent Magistrate of any offence, may appeal either to the Court of Session or to the High Court.

Appeal from conviction by Court of Session.

80. Any European British subject who is convicted of any offence by any Court of Session, may appeal to the High Court.

Right of European British subject under detention to apply for order to produce his person.

81. Any European British subject who is detained in custody by any person, and who considers such detention unlawful, may apply to the High Court which would have jurisdiction over him in respect of any offence committed by him at the place where he is detained, or to which he would be entitled to appeal from any conviction for any such offence, for an order directing the person detaining him to bring him before the said High Court to abide such further order as may be

be made by it. The High Court, if it thinks fit, may, before issuing such order, inquire, on affidavit or otherwise, into the grounds on which it is applied for, and grant or refuse such application; or it may issue the order in the first instance, and, when the person applying for it is brought before it, it may make such further order in the case as it thinks fit, after such inquiry as it thinks necessary.

Procedure on such application.

The High Courts may issue such orders throughout the territories over which they have jurisdiction, and over such other places as the Governor General in Council may direct.

82. Neither the High Courts nor any Judge of such High Courts shall issue any writ of *habeas corpus*, mainprise, *de homine replegiando*, nor any other writ of the like nature, beyond the Presidency towns.

Power of High Courts as to issue of writs.

83. When any person claims to be dealt with as a European British subject, he shall state the grounds of such claim to the Magistrate before whom he is brought for the purposes of the inquiry or trial; and such Magistrate shall, on such statement, decide whether he is or is not a European British subject, and shall deal with him accordingly; and if any such person is dissatisfied with such decision, the burden of proving that it was wrong shall be upon him. If the Magistrate decide that the accused person is not a European British subject, the trial shall proceed, but such decision shall form a ground of appeal.

Procedure on claim of European British subject to be dealt with as such.

84. If a European British subject does not claim to be dealt with as such before the Magistrate before whom he is tried or committed, he shall be held to have waived his privilege as such European British subject.

Failure to plead status a waiver.

If the Magistrate has reason to believe that any person brought before him is a European British subject, it is his duty to ask him whether he is one or not.

85. If a person who is not a European British subject is dealt with as such and does not object, the proceedings shall be valid.

Trial of person not a European British subject under this chapter.

86. All High Courts shall deal with proceedings against European British subjects outside of the Presidency

Procedure of High Courts

sidency towns in the manner in which they are empowered by this Act, or by any other law in force for the time being, to deal with the proceedings of Magistrates outside the Presidency towns; and not according to the law of England relating to the dealings of the superior Courts in England with the proceedings of Justices of the Peace in England.

The High Courts shall have the same powers with respect to the inquiries and charges against European British subjects, as Courts of Session have with respect to inquiries and charges against other persons.

Proceedings against European British subjects to be regulated by this Act.

87. All Magistrates and Courts of Session, proceeding against European British subjects under this chapter, shall proceed under the provisions of this Act, and not according to the law of England relating to Justices of the Peace; and all the provisions of this Act, not inconsistent with the provisions of this chapter, shall apply to such proceedings.

Place of confinement.

88. European British subjects sentenced to imprisonment shall be confined in such places as the Local Government may either specially or generally appoint.

PART III.

OF THE POLICE.

CHAPTER VIII.

OFFENCES OF WHICH INFORMATION MUST BE GIVEN TO THE POLICE, AND DUTY OF THE PUBLIC.

All persons to give information of certain offences.

89. Every person aware of the commission of any offence made punishable under sections one hundred and twenty-one, one hundred and twenty-one A, one hundred and twenty-two, one hundred and twenty-three, one hundred and twenty-four, one hundred and twenty-four A, one hundred and twenty-five, one hundred and twenty-six, one hundred and thirty, three hundred and two, three hundred and three, three hundred and four, three hundred and eighty-two, three hundred and ninety-two, three hundred and

and ninety-three, three hundred and ninety-four, three hundred and ninety-five, three hundred and ninety-six, three hundred and ninety-seven, three hundred and ninety-eight, three hundred and ninety-nine, four hundred and two, four hundred and thirty-five, four hundred and thirty-six, four hundred and forty-nine, four hundred and fifty, four hundred and fifty-six, four hundred and fifty-seven, four hundred and fifty-eight, four hundred and fifty-nine or four hundred and sixty of the Indian Penal Code, shall, in the absence of reasonable excuse, the burthen of proving which shall lie upon such person, give information of the same to the nearest Police officer or Magistrate.

Landholders and others bound to report certain matters.

90. Every Village Headman, Village Watchman, owner or occupier of land, or the agent of any such owner or occupier, and every Native officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, is bound forthwith to communicate to the nearest Magistrate, or to the officer in charge of the nearest Police-station, any information which he may obtain respecting—

(*a.*) the residence of any notorious receiver or vendor of stolen property at the village of which he is headman or watchman, or in which he owns or occupies land, or collects rent or revenue, as the case may be;

(*b.*) the resort to any place within the limits of such village of any person or persons known or reasonably suspected of being a thug or robber;

(*c.*) the commission or intention to commit suttee or other non-bailable offence at or near such village;

(*d.*) the occurrence of any sudden or unnatural death.

All persons to assist Magistrate and Police in certain cases.

91. Every person is bound to assist a Magistrate or Police officer demanding his aid

in the prevention of a breach of the peace,

or in the suppression of a riot or an affray,

or in the taking of any other person whom such Magistrate or Police officer is authorized to arrest.

CHAPTER IX.

CHAPTER IX.

OF ARREST WITHOUT WARRANT.

When Police may arrest without warrant.

92. A Police officer may, without orders from a Magistrate and without a warrant, arrest—

FIRSTLY.—Any person who, in the sight of such Police officer, commits a cognizable offence :

SECONDLY.—Any person against whom a reasonable complaint has been made, or a reasonable suspicion exists, of his having been concerned in any such offence :

THIRDLY.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence :

FOURTHLY.—Any person who has been proclaimed, either under this Act, or in a District or Police Gazette or Notification :

FIFTHLY.—Any person found with property in his possession which may reasonably be suspected to be stolen property :

SIXTHLY.—Any person who obstructs a Police officer while in the execution of his duty, or who escapes from lawful custody, and

SEVENTHLY.—Any person reasonably suspected of being a deserter from Her Majesty's Army or Her Majesty's Indian Army.

Person charged refusing to give his name and residence.

93. Any person known to have committed, or suspected of having committed, an offence for which a Police officer is not authorized to arrest without a warrant, and who refuses on demand of a Police officer to give his name and residence,

or gives a name or residence which there is reason to believe to be false,

may be detained by such Police officer for the purpose of ascertaining the name or residence of such person ; and shall, within twenty-four hours, be forwarded to the Magistrate having jurisdiction, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released.

94. An

94. An officer in charge of a Police-station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such station, who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, Arrest of vagabonds.

or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen,

or who is of notoriously bad livelihood.

95. Every Police officer shall prevent, and may interpose for the purpose of preventing, the commission of any cognizable offence. Police to prevent certain offences.

96. Every Police officer receiving information of a design to commit any such offence, shall communicate such information to the Police officer to whom he is subordinate, and to any other officer whom it may concern to prevent or take cognizance of the commission of any such offence. Information of design to commit such offences.

97. A Police officer knowing of a design to commit any such offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented. Arrest to prevent such offences.

98. A Police officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public property, moveable or immoveable, Injury to public property.

or to prevent the removal or injury of any public land-mark, or buoy or other mark used for navigation.

If necessary, such Police officer may detain the person doing such injury according to the provisions of section ninety-three.

99. If there is reason to believe that any person liable to arrest under this chapter without a warrant, of whom a Police officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police officer, to allow ingress thereto, and all reasonable facilities for a search therein. Ingress to be allowed into house entered by person of whom Police in search.

100. If

Procedure where ingress not obtainable.

100. If ingress to such house or place cannot be obtained under section ninety-nine, the Police officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested, and send immediate information to any Magistrate having jurisdiction.

If a warrant cannot be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police officer may make an entry into such house or place and search therein.

Person arrested to be taken before Magistrate or officer in charge of Police-station.

101. A Police officer making an arrest under this chapter shall, without unnecessary delay, take or send the person arrested before the Magistrate having jurisdiction in the case, or before the officer in charge of a Police-station.

Procedure when Police officer deputes subordinate to arrest without warrant.

102. When any officer in charge of a Police-station requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested by such officer without a warrant, he shall deliver to the Police officer required to make the arrest an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

The provisions of sections ninety-one and one hundred and seventy-six to one hundred and eighty-two (both inclusive) shall apply to every order in writing issued under this section.

Police may pursue offenders into other jurisdictions.

103. For the purpose of arresting any person accused of a cognizable offence, a Police officer may pursue any such person into the limits of the local jurisdiction of another Police officer, whether subordinate to the same Magistrate as himself, or to the Magistrate of any other District, and whether such place be in the same Province or not.

Detention of offenders attending Court.

104. Any person attending a Criminal Court, although not upon an arrest or summons on a complaint made, may be detained by such Court for the purpose of examination, for any offence which, from the evidence, he may appear to have committed, and may

may be proceeded against as though he had been arrested or summoned on a complaint made.

When the detention takes place in the course of an inquiry under chapter XV, or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh and the witnesses reheard.

Of Arrest by Private Persons.

105. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence. Arrest by private persons.

106. The master or mate of a British merchant ship may, either with or without the assistance of the Police, who are bound to aid if so required by such master or mate, arrest seamen or apprentices duly engaged under the Statute 17 & 18 Vic., cap. 104, or other law for the time being in force relating to merchant shipping, who refuse to join or desert from the vessel in which they contracted to serve. Arrest of deserters from British ships.

Such arrest shall be made only at the request and on the responsibility of such master or mate, and he shall be required by the Police to accompany the arrested person, should he be apprehended, before the Magistrate having jurisdiction; and it shall be the duty of such master or mate to obey such requisition.

107. A private person making an arrest under this chapter shall forthwith make over the person arrested to a Police officer; and, in the absence of a Police officer, shall take such person to the nearest Police-station. The Police shall deal with such person according to the provisions of section ninety-two or ninety-three, as the case may be, and shall not arrest or detain him unless he appears to be liable to arrest or detention under the section applicable. How to proceed with person arrested.

108. When any offence is committed in the presence of a Magistrate, he may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail. Offence committed in Magistrate's presence.

CHAPTER X.

CHAPTER X.

POWERS OF THE POLICE TO INVESTIGATE.

What offences Police officer may investigate.

109. An officer in charge of a Police-station may, without order of a Magistrate, investigate any offence cognizable by the Police.

What offences Police may not investigate.

110. A Police officer may not, without the order of a Magistrate of the first or second class, investigate an offence not cognizable by the Police.

A Magistrate of the first or second class may, as provided in sections twenty-four and twenty-six, order the Police to investigate; and, on receipt of an order to investigate a non-cognizable case, a Police officer may exercise the same powers in respect of the investigation as in a cognizable case.

Saving of powers vested in Police by special or local law.

111. Nothing in section one hundred and ten shall be held to interfere with the exercise of any powers vested in a Police officer by any special or local law, or with the performance of any duty which is imposed upon a Police officer by any such special or local law.

Complaint to Police to be in writing.

112. Every complaint preferred to an officer in charge of a Police-station shall be reduced into writing, and shall be signed, sealed, or marked by the person making it; and the substance thereof shall be entered in a book to be kept by such officer in the form prescribed by the Local Government.

Complaint in non-cognizable cases.

113. If a complaint is preferred to an officer in charge of a Police-station, of the commission within his local jurisdiction of an offence which is not cognizable by the Police, the Police officer shall enter the substance of it in the station diary, and shall refer the complainant to the Magistrate.

Upon information, &c., Police officer in charge of station to proceed in person or depute a subordinate.

114. If, from information or otherwise, an officer in charge of a Police-station has reason to suspect the commission, within his local jurisdiction, of an offence cognizable by the Police, he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take

take such measures as may be necessary for the discovery and apprehension of the offender.

Police officers shall investigate offences committed within the local limits of their jurisdiction; but they may investigate offences committed outside of those limits, in cases in which a Magistrate might, under the provisions of chapter VI, inquire into an offence not committed within his district.

No such proceeding shall, at any stage, be called in question on the ground that such offence was not committed within such officer's local jurisdiction.

Preliminary inquiry.

115. Such Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute any Magistrate subordinate to him to proceed, to hold a preliminary inquiry into or otherwise to dispose of such case in the manner provided in this Act.

Where local investigation dispensed with.

116. Provided that, when any complaint is made against any person by name and the case is not of a serious nature, the officer in charge of a Police-station need not proceed in person or depute a subordinate officer to make an investigation on the spot, unless such local investigation appears to be necessary.

Where Police officer in charge sees no sufficient ground for investigation.

117. Provided that, if it appear to the officer in charge of a Police-station that there is no sufficient ground for entering on an investigation, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall not proceed in the case, but shall report the substance of the complaint or information for the orders of the Magistrate having jurisdiction.

Such report shall be submitted through such superior officer of Police as the Local Government shall, by general or special order, in that behalf appoint. Such superior officer may give such instructions to the officer in charge of the Police-station as he deems fit, and shall, after recording such instructions on such report, transmit the papers without delay to the Magistrate having jurisdiction.

118. An

Police officer's power to summon witnesses.

118. An officer in charge of a Police-station, or other officer making an investigation, may, by an order in writing, require the attendance before himself of any person, being within the limits of his own or any adjoining station, who, from the statement of the complainant or otherwise, appears to be acquainted with the circumstances of any case which such officer is investigating; and such person shall attend as required and shall answer all questions relating to such case put to him by such officer:

Provided that no person shall be bound to answer any questions tending to criminate himself.

Oral examination of witnesses by Police.

119. An officer in charge of a Police-station, or other Police officer making an investigation, may examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined.

Such person shall be bound to answer all questions relating to such case, put him by such officer, other than questions criminating himself.

Proviso.

No statement so reduced into writing shall be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

No inducement to be offered to confess.

120. No Police officer or other person shall offer any inducement to an accused person, by threat or promise or otherwise, to make any disclosure or confession, whether such person is under arrest or not.

But no Police officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

Police not to record statement or confession.

121. No Police officer shall record any statement, or any admission or confession of guilt, which may be made before him by a person accused of any offence:

Proviso.

Provided that nothing in this section shall preclude a Police officer from reducing any such statement or admission or confession into writing for his own information

information or guidance, or from giving evidence of any dying declaration.

Powers of Magistrates to record statements and confessions.

122. Any Magistrate may record any statement made to him by any person, or any confession made to him by any person, accused of an offence by any Police officer or other person. Such statements shall be recorded in the manner hereinafter prescribed for recording evidence, and such confessions shall be taken in the manner provided in sections three hundred and forty-five and three hundred and forty-six, and shall, when recorded, be forwarded to the Magistrate by whom the case is inquired into or tried. No Magistrate shall record any such confession unless, upon inquiry, he has reason to believe that it was made voluntarily, and he shall make a memorandum at the foot of any such confession to the following effect:—

"I believe that this confession was voluntarily made."

(Signed) *A. B.*,
Magistrate.

Investigation by Police.

123. If the person arrested appears, from the information obtained, to have committed the offence charged, and the offence is not bailable, the officer in charge of the Police-station shall forward him under custody to the Magistrate having jurisdiction, and shall bind over the complainants, if any, and so many of the persons who appear to be acquainted with the circumstances of the case as may be necessary, to appear on a fixed day before such Magistrate, and to remain in attendance till otherwise directed.

When any subordinate Police officer has made any investigation under this chapter, he shall, if so required by the officer in charge of the Police-station, submit a report of such investigation to him; or he may do so without such requisition; and the officer in charge of the Police-station shall then proceed as if he had made the investigation himself.

Accused not to be detained by Police more than twenty-four hours without special authority.

124. No Police officer shall detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable; and such period shall not, in the absence of the special order of

of a Magistrate, whether having jurisdiction to inquire into or try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

If the investigation has not been completed within twenty-four hours and no such special order has been passed, and if there are grounds for believing that the accusation is well founded, the officer in charge of the Police-station shall forward the accused person to the Magistrate having jurisdiction, with a statement of the offence for which he has been arrested.

A Magistrate authorizing detention under this section shall record his reasons for so doing.

If such order be given by a Magistrate other than the Magistrate of the District or of a Division of a District, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is subordinate.

Procedure of Police in case of deficient evidence.

125. If it appears to the officer in charge of the Police-station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of an accused person to the Magistrate, such officer shall release the accused person on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate having jurisdiction. Such report shall be submitted through the superior officer of Police mentioned in section one hundred and seventeen, who may, pending the orders of the Magistrate, give instructions as to the conduct of the investigation.

Daily record of proceedings.

126. A Police officer making an investigation under this chapter shall day by day enter his proceedings in the investigation in a diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his investigation, the place or places visited by him, and a statement of the circumstances ascertained by his investigation.

Any Criminal Court may send for the Police diaries of a case under inquiry or trial in such Court, and may

may use such diaries to aid it in such inquiry or trial. Neither the prisoner nor his agents shall be entitled to call for them, nor shall he or they be entitled to see them merely because they are referred to by the Court; but if they are used by the Police officer who made them to refresh his memory, or if the Court uses them for the purpose of contradicting such Police officer, the provisions of the law relating to documents used for such purposes shall apply to them.

Report of Police officer.

127. The investigation shall be completed without unnecessary delay, and, as soon as it is completed, the Police officer making the same shall forward to the Magistrate having jurisdiction a report in the form prescribed by the Local Government, setting forth the names of the parties, the nature of the complaint, and the names of the persons who appear to be acquainted with the circumstances of the case, and shall also send to such Magistrate any weapon or article which it may be necessary to produce before him.

The Police officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance.

If the accused person be detained in custody, the Police officer shall state the fact and the cause of his detention.

Admission to bail.

128. A person accused of any non-bailable offence shall not be admitted to bail if there appear reasonable ground for believing that he has been guilty of the offence imputed to him:

But a person accused of any bailable offence shall be admitted to bail, if sufficient bail be tendered for his appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive.

Terms of security.

129. The bail to be taken under section one hundred and twenty-eight shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, and from day to day, until otherwise directed, to answer the complaint.

130. Every

Complainants and witnesses to execute recognizances to appear.

130. Every complainant and other person acquainted with the facts and circumstances of the case, whose attendance before the Magistrate having jurisdiction is deemed necessary by the Police officer making the investigation, shall execute a recognizance in the Form (F) given in the second schedule hereto, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day.

If the Court of the Magistrate of the District, or of a Magistrate of a Division of a District, be inserted in the bond, it shall be held to include any Court to which such Magistrate may refer the case for inquiry or trial, provided notice be given to such complainant or witness.

Such day shall be the day whereon the accused person is to appear, if he has been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate, if he is to be forwarded in custody.

The officer in whose presence the recognizance is executed shall, after delivering to the complainant or one of the witnesses a duplicate thereof, send it with his report to the Magistrate having jurisdiction.

No Police officer shall, except as provided in the next following section, accompany the complainant or witnesses on his or their way to the Court of the Magistrate.

Complainants and witnesses not to be subjected to restraint.

131. A Police officer shall not subject any complainant or witness to restraint or unnecessary inconvenience, nor require him to give any security for his appearance, other than his own recognizance.

Recusant complainant or witness may be forwarded in custody.

But if any complainant or witness refuses to attend, or to execute the recognizance directed in section one hundred and thirty, the officer in charge of a Police-station may forward him under custody to the Magistrate having jurisdiction, who may detain him in custody until he executes such recognizance, or until the hearing is completed.

132. Officers

132. Officers in charge of Police-stations shall report to the Magistrate of the District, or the Magistrate of the Division of a District, the cases of all persons apprehended within the limits of their respective stations, or detained under section ninety-three, whether such persons have been admitted to bail or otherwise, under whatever law such persons may have been arrested.

Police to report apprehensions.

No person who has been apprehended by a Police officer shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

Discharge of person apprehended.

133. The officer in charge of a Police-station, on receiving notice or information of the unnatural or sudden death of any person, shall immediately give intimation thereof to the nearest Magistrate duly authorized, and shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable inhabitants of the neighbourhood, shall make an investigation, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner, or by what weapon or instrument, such mark appears to have been inflicted.

Police to inquire and report on unnatural and sudden deaths.

The report shall be signed by such Police officer and other persons, or by so many of them as concur therein, and shall be forthwith forwarded to the Magistrate of the District, or to the Magistrate of the Division of a District.

When there is any doubt regarding the cause of death, the Police officer shall forward the body, with a view to its being examined, to the nearest Civil Surgeon or other medical officer appointed in this behalf by the Local Government, if the state of the weather and the distance admit of its being so forwarded without risk of putrefaction on the road.

In the Presidencies of Madras and Bombay, the Head of the village may also in like manner make the investigation and report to the nearest Magistrate duly authorized.

134. An

Power to summon persons.

134. An officer in charge of a Police-station may, by an order in writing, summon two or more persons as aforesaid for the purpose of the said investigation, and any other person who appears to be acquainted with the facts of the case. Any person so summoned shall be bound to attend and to answer all questions (other than questions which would criminate him).

If the facts do not disclose a cognizable offence to which section one hundred and twenty-seven is applicable, such persons shall not be required by the Police officer to attend a Magistrate's Court.

Inquiry into cause of such death by nearest Magistrate.

135. The nearest Magistrate, duly authorized, may hold an inquiry into the cause of any such death, either instead of or in addition to the investigation held by the Police officer; and if he does so, he shall have all the powers in conducting it which he would have in holding an inquiry into an offence, although no specific charge has been made against any person. The Magistrate holding such an inquiry shall record the evidence taken upon it in any of the manners hereinafter prescribed, according to the circumstances of the case.

Substitute for officer in charge of Police-station during his absence or illness.

136. The powers to be exercised by an officer in charge of a Police-station under this chapter shall be exercised, in the event of his absence from the station-house or of his illness, by the Police officer next in rank present at the Police-station, above the rank of a constable.

Powers of superior officers of Police.

137. Officers of Police superior in rank to officers in charge of a Police-station may exercise the same powers throughout their local jurisdictions as may be exercised by officers in charge of Police-stations within the limits of such stations.

Assistant District Superintendent of Police may exercise powers of District Superintendent.

138. For the purposes of this Act, an Assistant District Superintendent of Police may exercise any of the powers of a District Superintendent of Police, subject to the control of such District Superintendent of Police; or, in the absence of the District Superintendent of Police and the Assistant District Superintendent, the senior officer of Police on the spot

spot may be directed by the Magistrate of the District to exercise the powers of a District Superintendent of Police.

PART IV.

OF PROCEEDINGS TO COMPEL APPEARANCE.

CHAPTER XI.

OF COMPLAINTS TO A MAGISTRATE.

Processes.

139. Proceedings to compel the appearance before a Magistrate of persons accused or suspected of offences, who have not been arrested without warrant, may be by summons or by warrant.

When summons or warrant may be issued.

140. A summons or a warrant may be issued—

(*a.*) Upon a report by the Police under chapter X; but if the person complained of is already in custody, no complaint, summons or warrant is necessary:

(*b.*) Upon information or report by a Police officer as to a non-cognizable offence. Such information or report shall be regarded as a complaint:

(*c.*) Upon a complaint by a private person. Any person acquainted with the facts of a case may make a complaint:

(*d.*) Upon suspicion entertained by a Magistrate that an offence has been committed.

Who may entertain complaints.

141. The Magistrate of the District,

any Magistrate of a Division of a District, or

any Magistrate duly empowered in that behalf,

in any case which he is competent to try or to commit for trial,

may entertain a complaint of an offence, whether preferred directly by the complainant, or on report of a Police officer, and may issue process, in the manner hereinafter prescribed, to compel the appearance of persons accused of such offences.

Effect of reference.

Any Magistrate to whom any case is duly referred, by any Magistrate duly empowered to make such reference, may dispose of such case.

A complaint

Effect of complaint or Police report.

A complaint or a Police report gives jurisdiction to a competent Magistrate to inquire into or try any offence covered by the facts complained of or reported, and also to try or commit for trial any person who, at the time when the complaint or report is made, or subsequently, appears to have committed the offence disclosed.

Who may act without complaint.

142. The Magistrate of the District,

any Magistrate of a Division of a District,

or any Magistrate duly empowered in that behalf,

in any case in which he is competent to try or to commit for trial,

may, without any complaint, take cognizance of any offence which he suspects to have been committed, and may issue process in the manner hereinafter prescribed to compel the appearance before him of persons whom he suspects to have committed any such offence.

Complaint or sanction required in certain cases.

Nothing in this or in the last preceding section shall be held to authorize a Magistrate to take cognizance of a case without complaint, when the offence falls under chapters XIX, XX or XXI of the Indian Penal Code; nor to entertain a complaint, or to take cognizance without complaint, of an offence, without sanction, where such offence, by any law in force, may not be entertained without sanction.

Who may commit for trial.

143. The Magistrate of the District,

any Magistrate of a Division of a District,

any Magistrate of the first class, or,

any Magistrate duly empowered in that behalf,

may commit any person to the Court of Session for any offence triable by such Court.

Examination of complainant.

144. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made to a Magistrate, such Magistrate, if he is competent to receive such complaint, shall examine the complainant.

The examination shall be reduced into writing in a summary manner and signed by the complainant, and also by the Magistrate.

Where

Where the complaint has been made by petition, and the Magistrate neglects to examine the complainant, the trial of the person accused shall not be set aside on this ground.

Effect of irregularity.

145. If the Magistrate be not competent to receive the complaint, he shall refer the complainant to a Magistrate having jurisdiction.

Procedure by Magistrate not empowered to hear complaint.

146. If the Magistrate sees cause to distrust the truth of a complaint, he may postpone the issuing of process for compelling the attendance of the person complained against, and may direct a previous inquiry or investigation to be made into the truth of the complaint, either by means of any officer subordinate to such Magistrate, or of a local Police officer, or in such other mode as he thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint.

Postponement of issue of process.

If such inquiry or investigation is made by means of some person other than an officer exercising any of the powers of a Magistrate or a Police officer, such person shall exercise all the powers conferred by this Act on an officer in charge of a Police-station, except that he shall have no power to make an arrest.

147. The Magistrate before whom such complaint is duly made may, if, after examining the complainant, there is in his judgment no sufficient ground for proceeding, dismiss the complaint.

Dismissal of complaint.

The dismissal of a complaint shall not prevent subsequent proceedings.

If it appears to such Magistrate that there is sufficient ground for proceeding, he shall, if the case appears to be a summons case, issue his summons, or, if the case appears to be a warrant case, his warrant, for causing the accused person to appear before himself or some other Magistrate having jurisdiction.

Issue of process.

148. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with fine only, or with imprisonment for a period not exceeding six months, or with both, the Magistrate may

In what cases a summons may issue.

may issue his summons directed to such person, requiring him to appear at a certain time and place before such Magistrate to answer to the complaint.

If the Magistrate believes that the accused person is about to abscond, he may, instead of issuing a summons, issue a warrant in the first instance for the arrest of such person.

In what cases warrant may issue on complaint.

149. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected of having committed, any offence triable by such Magistrate and punishable with imprisonment for a period exceeding six months,

or when a complaint is made before any Magistrate empowered to commit persons for trial before the Court of Session, that any person has committed, or is suspected of having committed, any offence triable exclusively by the Court of Session, or which in the opinion of such Magistrate ought to be tried by the Court of Session,

such Magistrate may issue his warrant to arrest such person, or, if he thinks fit, his summons requiring him to appear to answer such complaint.

Warrant to arrest, if summons not obeyed.

150. If the person served with a summons does not appear before the Magistrate at the time mentioned in such summons, and the Magistrate is satisfied that such summons was duly served in what the Magistrate deems a reasonable time before the time therein appointed for appearing to the same,

or if it appears to the Magistrate that, after due diligence, the summons could not be served according to the provisions of this Act,

the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

151. In cases, of whatever nature, in which the Magistrate thinks fit to issue a summons, he may, if he sees sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf.

But

But it shall be in the discretion of such Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

CHAPTER XII.

Of the Summons.

Form of summons.

152. Every summons issued by a Magistrate to an accused person shall be in writing, in duplicate, and shall be signed and sealed by such Magistrate, and shall be in the Form (A) given in the second schedule to this Act, or to the like effect.

Summons by whom served.

153. A summons shall ordinarily be served through a Police officer; but the Magistrate issuing the summons may, if he see fit, direct it to be served by any other person.

Summons how served.

154. The summons shall be served on the accused personally, in any district where he may be, by exhibiting one of the copies and delivering or tendering the other copy to him; or, in case the accused person cannot be found, the copy may be left for him with some adult male member of his family residing with him, and the person summoned, or the person with whom the copy is left, shall sign a receipt therefor.

Service when accused cannot be found.

155. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Issue of warrant in addition to summons.

156. A Magistrate may, notwithstanding the issue of such summons, either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Summons or warrant for offence committed beyond local jurisdiction.

157. The Magistrate of the District, a Magistrate of a Division of a District, or a Magistrate of the first class duly authorized in that behalf and having local jurisdiction in such District or Division of a District, may issue a summons or warrant for the apprehension

hension of any person within such District or Division of a District, in respect of any offence known or suspected to have been committed by such person in a different District or Division of a District, or on the high seas, or in a foreign country, and for which, if committed within the local jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this chapter, as to form, service and issue of summons, applicable to all summonses.

158. The provisions relating to a summons, its issue and service, contained in this chapter, shall be applicable to every summons issued under this Act, except a summons to serve as a juror or assessor:

Provided that, when the person summoned is in the service of Government or of any Railway Company, the Court or Magistrate issuing the summons may send the summons to the head of the office in which the person summoned is employed; and such head shall thereupon cause the summons to be served on the person named therein.

CHAPTER XIII.

OF THE WARRANT.

Form of warrant.

159. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the Form (B) given in the second schedule to this Act, or to the like effect.

Effect of warrant of arrest.

The warrant issued under this chapter remains in force until the person arrested is brought into the presence of the Magistrate who issued it, and so long as he remains before such Magistrate. If the person arrested is to be remanded to custody, an order must be made under section one hundred and ninety-four, or a warrant issued under section three hundred and three.

Magistrate may direct bail to be taken.

160. It shall be in the discretion of a Magistrate, in issuing a warrant for the arrest of any person, to direct by endorsement on the warrant that, if such person be willing and ready to give bail, in a sum to be fixed by the Magistrate, for his appearance before the

the Magistrate on a specified day [which sum and day shall be named in such endorsement], to answer the complaint, the officer to whom the warrant is directed shall accept such bail, and shall release from custody the person complained against.

If bail is given, the officer shall forward the bail-bond to the Magistrate.

Bail-bond to be forwarded.

161. A warrant shall ordinarily be directed to a Police officer, but the Magistrate issuing a warrant may, if immediate execution be necessary and no Police officer be immediately available, direct it to any other person.

Warrants to whom directed.

162. The Magistrate of the District may direct a warrant or warrants to landholders, farmers or managers of land, for the arrest of any escaped convict, proclaimed offender, or person who has been accused of a non-bailable offence, and who has eluded pursuit.

Warrant may be directed to landholders, &c.

Such landholder or other person shall acknowledge the receipt of the warrant and shall be bound to execute it, should the person for whose arrest it was issued enter on or be in his estate, farm or land under his charge.

Should the person against whom such warrant is issued be arrested, he shall be made over to the nearest Police officer with the warrant, and such Police officer shall cause such accused person to be carried before the Magistrate having jurisdiction, unless bail may be and is taken under section one hundred and sixty.

163. When a warrant is directed to a person other than a Police officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Warrants directed to any person other than a Police officer.

164. A warrant may be directed to several persons, and, when so directed, may be executed by all, or by any one or more of such persons.

Warrant to several persons.

165. A warrant directed to a Police officer may also be executed by any other Police officer whose name is endorsed upon the warrant by the officer to whom the warrant is directed or endorsed.

Warrant directed to Police officer.

166. The

Magistrate issuing warrant may superintend its execution.

166. The Magistrate by whom a warrant of arrest is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Arrest in presence of Magistrate.

Any Magistrate may also at any time direct the arrest, in his presence, of any person for whose arrest he is competent to issue a warrant.

Where warrant may be executed.

167. A warrant issued by a Magistrate shall ordinarily be executed in the district in which it was issued.

But if the person against whom the warrant is issued escapes, goes into, or is, in any place out of the district in which the warrant was issued, the warrant may be executed in such place.

Magistrate may issue warrant for execution in places outside his jurisdiction.

168. A Magistrate may direct a warrant to be executed outside his local jurisdiction, either after endorsement by a Magistrate within whose local jurisdiction it is to be executed, or without such endorsement.

If the warrant is to be so endorsed, it may be sent by post to the Magistrate within whose local jurisdiction it is to be executed and by whom it is to be endorsed.

If the warrant is not to be endorsed, it shall be entrusted to a Police officer, to be taken, either to a Magistrate, or to a Police officer not below the rank of an officer in charge of a station, in whose local jurisdiction the warrant is to be executed.

Procedure on arrest of person against whom warrant was issued.

169. If a warrant is executed, whether with or without endorsement, outside the district in which it was issued, the person arrested shall, unless the Magistrate who issued the warrant be within twenty miles or be nearer than the Magistrate in whose local jurisdiction the arrest was made, or unless bail be taken under section one hundred and sixty, be carried before the Magistrate in whose local jurisdiction the arrest was made.

Procedure by Magistrate before whom arrested person is brought.

170. A Magistrate or Police officer to whom a warrant is directed for execution shall execute the same, or cause it to be executed, and any Magistrate before whom a person is brought under the provisions of

of section one hundred and sixty-nine shall, if the person arrested appears to be the person intended by the Magistrate who issued the warrant, direct his removal in custody to the Magistrate who issued the warrant,

or, if the offence be bailable, and the person arrested be ready and willing to give bail, shall take bail for his appearance before the Magistrate who issued the warrant, and the recognizance or bail-bond shall be forwarded to such Magistrate.

In this section the word "Magistrate" includes a Commissioner of Police and a Magistrate of Police in the Presidency towns.

Proclamation for person absconding.

171. If any person accused of an offence not coming within section one hundred and forty-eight absconds or conceals himself, so that, upon a warrant issued against him, he cannot be found, the Magistrate having jurisdiction shall, if he thinks, whether after taking evidence or not, that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring him to appear to answer the complaint within a fixed period not less than thirty days.

Such proclamation shall be publicly read in some conspicuous place of the town or village in which the accused person usually resides, and shall be affixed on some conspicuous part of his ordinary place of abode, or on some conspicuous place of such town or village.

A copy of the proclamation shall also be affixed on some conspicuous part of such Magistrate's Court-house.

A statement by the Magistrate to the effect that the proclamation was duly made shall be conclusive evidence of due compliance with the law.

Attachment of property of person absconding.

172. Such Magistrate may order the attachment of any property, moveable or immoveable, or both, belonging to the person so absconding or concealing himself.

Such

Such order shall authorize the attachment of any property within the jurisdiction of the Magistrate of the District in whose district it is made; and it shall authorize the attachment of any property without the jurisdiction of the Magistrate of the District, when endorsed by the Magistrate of the District in which such property is situated.

The attachment under this section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and, in all other cases, by seizure under the order of the Magistrate having jurisdiction; or by the appointment of a manager and receiver; or by an order prohibiting the payment of rent to the absent person, as such Magistrate deems proper.

If the absent person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but shall not be sold until the expiration of six months, unless it is of a perishable nature, or such Magistrate considers that the sale would be for the benefit of the owner.

Restoration of forfeited property.

173. When any person whose property has come under the disposal of Government under section one hundred and seventy-two appears or is found within two years after the attachment of the property, and proves to the satisfaction of the Court of Session or High Court trying him for the offence of which he was accused, or, if he is not tried in, or committed for trial for that offence to, either of those Courts, to the satisfaction of the Magistrate of the District, that he did not abscond or conceal himself for the purpose of evading justice, such property, or, if the same has been sold, the proceeds thereof, shall be restored to him.

Magistrate's procedure on arrest, under his own warrant, for offence committed out of his jurisdiction.

174. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of section one hundred and fifty-seven, in respect of an offence known or suspected to have been committed in another District or Division of a District, the Magistrate who issued the warrant shall,

shall, unless he is authorized to complete the inquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or shall take bail for his appearance before such Magistrate, if the offence of which such person is suspected is bailable.

When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the High Court.

Procedure where such warrant issued by Subordinate Magistrate.

175. If the arrest was made under a warrant issued under section one hundred and fifty-seven by a Magistrate other than the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed issues his warrant for the arrest of such person; in which case the person arrested shall be delivered to the Police officer executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued.

If the offence of which the person arrested is suspected has been committed in the jurisdiction of another Subordinate Court of the same district, the Magistrate who issued the warrant under section one hundred and fifty-seven shall send the person arrested to the Magistrate of the Division of the District in which the offence was committed.

Notification of substance of warrant.

176. A Police officer or other person executing a warrant of arrest shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Warrant how executed.

177. In making an arrest, the Police officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

178. If a person against whom a warrant of arrest is issued forcibly resists the endeavour to arrest him, the Police officer or other person executing the

the warrant may use all means necessary to effect the arrest.

Search of house entered by person against whom warrant issued.

179. If there is reason to believe that any person against whom a warrant has been issued has entered into, or is within, any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police officer or other person executing the warrant, to allow such Police officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking of door or window.

180. The Police officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused or of any other person, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open zanána.

181. If information be received that a person accused of any offence for which a warrant may issue is concealed in an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police officer or other person employed to execute the warrant shall take such precautions as may be necessary to prevent the escape of the accused person.

If the accused person does not deliver himself up, the Police officer or other person authorized to execute the warrant may notify his authority and purpose, and demand admittance.

If after such notification and demand he cannot otherwise obtain admittance, he shall give notice to any woman as aforesaid in such apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and execute the warrant.

No unnecessary restraint.

182. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

183. The

183. The officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

Person arrested to be brought before Magistrate.

184. No Police officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure.

Inducements to disclosure or confession.

But no Police officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

185. The provisions relating to a warrant and its execution, contained in this chapter, shall be applicable to every warrant of arrest issued under this Act.

Provisions as to warrant and its execution and issue applicable to all warrants of arrest.

PART V.

OF INQUIRIES AND TRIALS.

CHAPTER XIV.

PRELIMINARY.

186. Every person charged before any Criminal Court with an offence may of right be defended by any barrister or attorney of a High Court, or by any pleader duly qualified under the provisions of Act No. XX of 1865, or any other law in force for the time being relating to pleaders.

Right of accused to be defended.

Any such person may, with the permission of the Court (but not otherwise), employ any mukhtár or other person, not being a barrister, attorney or pleader, to assist him in his defence.

If an accused person, though not insane, cannot be made to understand the proceedings, the Court may proceed with the inquiry or trial; and if such inquiry results in a committal, or if such trial results in a conviction, the proceedings shall be forwarded to

Where accused person does not understand the proceedings.

to the High Court, with a report of the circumstances of the case, and the High Court shall pass thereon such order as to it seems fit.

Criminal Courts to be open.

187. The place in which the Court of a Magistrate is held for the trial of any offence, or for the purpose of conducting an inquiry into any case triable by a Court of Session or High Court, and also every Court of Session and every High Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conenviently contain them.

But the Magistrate or presiding Judge may, if he thinks fit, order that, during the inquiry into or trial of any particular case, no person shall have access to, or be, or remain in, the room or building used by the Court, without the consent or permission of the Court.

Compounding offences.

188. In the case of offences which may lawfully be compounded, injured persons may compound the offence out of Court, or in Court with the permission of the Court.

Such withdrawal from the prosecution shall have the effect of an acquittal of the accused person.

CHAPTER XV.

OF INQUIRY INTO CASES TRIABLE BY THE COURT OF SESSION OR HIGH COURT.

Procedure in preliminary inquiries.

189. The following procedure shall be adopted in inquiries before Magistrates in cases triable by a Court of Session or High Court.

Examination of complainant and witnesses for prosecution.

190. When the accused person appears or is brought before the Magistrate, or, if his personal attendance is dispensed with, when the Magistrate thinks fit, the Magistrate shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

191. The

191. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his agent, when his personal attendance is dispensed with and he appears by agent.

Examination to be in presence of accused.

The accused person or his agent shall be permitted to examine and re-examine his own witnesses, and to cross-examine the complainant and his witnesses.

Accused may cross-examine.

192. The Magistrate may, at any stage of the proceedings, summon and examine any person whose evidence he considers essential to the inquiry, and re-call and re-examine any person already examined.

Power of Magistrate to summon and examine any person.

193. The Magistrate may from time to time, at any stage of the inquiry and without previously warning the accused person, examine him, and put such questions to him as he considers necessary.

Examination of accused.

The accused person shall not render himself liable to punishment for refusal to answer such questions, or for giving false answers to them, but the Magistrate shall draw such inference as may to him seem just from such refusal.

EXPLANATION.—The answer given by an accused person may be put in evidence against him, not only in the case under inquiry, but also in trials for any other offences which his replies may tend to show he has committed.

194. If, from the absence of a witness or from any other reasonable cause, it becomes necessary or advisable to defer the examination, or further examination, of witnesses, the Magistrate may, by a written order, from time to time adjourn the inquiry and remand the accused person for such time as is deemed reasonable, not exceeding fifteen days.

Adjournment of inquiry and remand.

Instead of detaining the accused person in custody during the period for which he is so remanded, the Magistrate may release him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before such Magistrate at the time and place appointed for the continuance of such examination.

EXPLANATION.

EXPLANATION.—After commencing the inquiry, if sufficient evidence has been obtained to raise a suspicion that the person accused may have committed an offence, and it appears likely that further evidence may be obtained by a remand, this is a reasonable ground for a remand.

When accused person to be discharged.

195. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or High Court, or for remanding him, he shall discharge him, unless it appears to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under chapters XVI, XVII or XVIII of this Act.

EXPLANATION I.—The absence of the complainant, except when the offence may lawfully be compounded, shall not be deemed sufficient ground for a discharge, if there appear other evidence of a nature rendering a trial desirable.

EXPLANATION II.—A discharge is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

EXPLANATION III.—An order of discharge cannot be made until the evidence of the witnesses named for the prosecution has been taken.

When accused is to be committed for trial.

196. When evidence has been given before a Magistrate, which appears to justify him in sending the accused person to take his trial for an offence which is triable exclusively by the Court of Session or High Court, or which, in the opinion of the Magistrate, is one which ought to be tried by such Court, the accused person shall be sent for trial by such Magistrate before the Court of Session or High Court, as the case may be.

When commitment to be to a High Court.

197. If such accused person (not being a European British subject)

is accused of having committed an offence conjointly with a European British subject who is about to be committed for trial, or to be tried, before the High Court on a similar charge,

and

and the evidence appears to justify the Magistrate in sending the accused person for trial,

he shall commit such accused person to take his trial before such High Court, and not before a Court of Session; and such High Court shall have jurisdiction to try such person.

BENGAL SECRETARIAT LIBRARY.

EXPLANATION.—A commitment once made by a competent Magistrate can be quashed by the High Court only, and only on a point of law.

This explanation applies also to section one hundred and ninety-six.

Contents of charge.

198. When the Magistrate determines to send the accused person before the Court of Session or High Court for trial, he shall, after the evidence has been recorded, make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct him to be tried by such Court on such charge. He shall also record his reasons for committing such accused person.

Copy of charge.

A copy of such instrument shall be forwarded, with the record of the original inquiry, to the Court of Session before which the accused person is to be tried; and a copy shall also be sent to the public prosecutor or other officer appointed to conduct the prosecution.

Any weapon or other article of property necessary to produce in evidence shall also be transmitted to the Court of Session.

When a commitment is made to the High Court, such instrument, record, and such weapon or other article, shall be forwarded to the Clerk of the Crown or other officer appointed by the Court; and if any part of such record is not in English, a translation thereof in English shall be forwarded therewith.

Copy of charge to be furnished to accused.

199. As soon as the charge on which the accused person is to be tried has been prepared, it shall be read and explained to him; and a copy or translation thereof shall be furnished to him, if he so require.

200. The

List of witnesses for defence on trial.

200. The accused personshall be required at once to give in, orally or in writing, a list of witnesses whom he wishes to be summoned to give evidence on his trial before the Court of Session or High Court.

The Magistrate may, if he thinks proper, summon the persons so named to attend and give evidence at the inquiry; and if he does so, the commitment shall not be considered to have been made until such evidence has been taken.

Further list.

It shall be in the discretion of the Magistrate, subject to the provisions of section three hundred and fifty-nine, to allow the accused person to give in any further list of witnesses at a subsequent time.

Copies of depositions to be furnished to accused.

201. When the inquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions. Such copies shall be made at his expense, unless the Magistrate sees fit to give them free of cost.

When commitment made, Magistrate to give notice to Government prosecutor.

202. When the accused person is committed to take his trial before the Court of Session or High Court, the Magistrate shall issue an order to the public prosecutor, Government pleader or other person appointed by the Government to conduct prosecutions before the Court of Session or High Court, notifying such commitment, and stating the offence in the same form as the charge.

Nothing in this section shall preclude the Magistrate of the District, in a case committed to the Court of Session, if he thinks fit, from appointing a person other than such Government pleader or person to conduct the prosecution.

CHAPTER XVI.

OF THE TRIAL OF SUMMONS CASES BY MAGISTRATES.

Procedure in summons cases.

203. The following procedure shall be observed in the trial of summons cases.

No

No formal charge need at any time be made against the accused person, and neither the complaint nor the summons shall be regarded otherwise than as notice to the accused person of the facts to be inquired into. The Magistrate may convict the accused person of any offence (coming under this chapter) which, from the facts proved, he appears to have committed, whatever may be the nature of the complaint or summons.

Object and effect of complaint.

No defect in the complaint or summons shall affect the validity of the proceedings, unless it appears that the accused person was actually misled by such defect; and, in considering whether or not he was so misled, the Court shall have regard to the manner in which the accused person conducted his defence.

When notice is defective.

204. If, upon the day appointed, the accused person appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the Magistrate by virtue of a warrant or otherwise, it shall be at the discretion of the Magistrate to admit him to bail, or allow him to be at large upon his personal recognizance, as the Magistrate directs.

Accused person may be admitted to bail, or allowed to be at large on his personal recognizance.

If the accused person cannot give bail when required to do so, he shall be committed to custody.

205. If upon the day appointedf or the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint, unless for some reason he thinks proper to adjourn the hearing of the same to some other day. Such adjournment shall be made upon such terms as the Magistrate thinks fit.

Non-appearance of complainant.

206. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted.

Substance of complaint to be stated.

If the accused person admit the truth of the complaint, his admission shall be recorded, and if he shows no sufficient cause why he should not be convicted,

Conviction on admission of truth of complaint.

victed, the Magistrate may convict him accordingly of such offence (coming under this chapter) as he may appear to have committed.

Procedure when no such admission is made.

207. If the accused person does not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he produces in support of his complaint, and also to hear the accused person and such witnesses as he produces in his defence.

Adjournment.

208. Before or during the hearing of any complaint, the Magistrate may, in order to secure the attendance of witnesses or for any other reason, adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties.

If on the day to which such hearing or such further hearing has been so adjourned, the accused person does not appear, the Magistrate may issue his warrant for the arrest of such person.

If the complainant does not appear, the Magistrate may dismiss the complaint.

Compensation in cases of frivolous or vexatious complaints.

209. A Magistrate may dismiss the complaint as frivolous or vexatious, and may, in his discretion, by his order of dismissal, award that the complainant shall pay to the accused person such compensation, not exceeding fifty rupees, as to such Magistrate seems just and reasonable.

In such cases, if more persons than one are accused in the complaint, the Magistrate may, in like manner, award compensation not exceeding fifty rupees to each of them.

Recovery of such compensation.

The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District; and such order shall authorize the distress and sale of any moveable property belonging to the complainant without the jurisdiction of the Magistrate of the District, when the order has been endorsed by the Magistrate of the District in which such property is situated, and, if the sum awarded cannot be realized by means of

of such distress, by imprisonment of the complainant in the civil jail, for any time not exceeding thirty days, unless such sum is sooner paid.

210. If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the Magistrate may permit him to withdraw it. Withdrawal of complaint.

A complaint withdrawn under this section shall not again be entertained.

211. If the Magistrate, in any case tried under this chapter, finds the accused person not guilty, he shall record a judgment of acquittal. Acquittal.

If the accused person is convicted, the Magistrate shall pass sentence upon him according to law. Sentence.

When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of such accused person's agent, if he has been permitted to appear by agent; or the accused person may be required to attend to hear such sentence.

212. The dismissal of a complaint under this chapter shall operate in like manner as the acquittal of the accused person. Effect of dismissal.

No complaint shall be dismissed under the provisions of this chapter, except in so far as it refers to a summons case.

CHAPTER X

Of the Trial of Warrant Cases by Magistrates.

213. The following procedure shall be observed by Magistrates in the trial of warrant cases. Procedure in warrant cases.

214. The provisions of sections one hundred and ninety to one hundred and ninety-four (both inclusive) shall apply to trials conducted under this chapter. Sections 190 to 194 to apply.

215. When

be lawfully inflicted under section twenty of this Code:—

(1). Offences referred to in section one hundred and forty-eight of this Code:

(2). Offences relating to weights and measures, under sections two hundred and sixty-four, two hundred and sixty-five and two hundred and sixty-six of the Indian Penal Code:

(3). Hurt, under section three hundred and twenty-three of the Indian Penal Code:

(4). Theft, under section three hundred and seventy-nine of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees:

(5). Theft, under section three hundred and eighty of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees:

(6). Theft, under section three hundred and eighty-one of the Indian Penal Code, where the value of the property stolen does not exceed fifty rupees:

(7). Receiving stolen property, under section four hundred and eleven of the Indian Penal Code:

(8). Mischief, under section four hundred and twenty-seven of the Indian Penal Code:

(9). House-trespass, under section four hundred and forty-eight of the Indian Penal Code:

(10). Criminal intimidation, under sections five hundred and four and five hundred and six of the Indian Penal Code:

(11). Abetment of, or attempt to commit (when such attempt is an offence), any of the foregoing offences.

Power to invest Magistrates with power to try summarily.

223. The Local Government may invest any Magistrate of the first class with power to try summarily all or any of the offences mentioned in section two hundred and twenty-two.

224. The

224. The Local Government may invest any Bench of Magistrates invested with the powers of a Magistrate of the first class with power to try summarily all or any of the offences mentioned in section two hundred and twenty-two.

Power to invest Bench of Magistrates invested with first class magisterial powers.

225. The Local Government may invest any Bench of Magistrates invested with the powers of a Magistrate of the second or third class with power to try summarily all or any of the following offences:—

Power to invest Bench of Magistrates invested with less power.

Offences coming within sections two hundred and seventy-seven, two hundred and seventy-eight, two hundred and seventy-nine, two hundred and eighty-five, two hundred and eighty-six, two hundred and eighty-nine, two hundred and ninety, two hundred and ninety-two, two hundred and ninety-three, two hundred and ninety-four, three hundred and twenty-three, three hundred and thirty-four, three hundred and thirty-six, three hundred and forty-one, three hundred and fifty-two, four hundred and twenty-six and four hundred and forty-seven of the Indian Penal Code; any offences against Municipal Acts, and the Conservancy clauses of Police Acts, punishable with fine, or with imprisonment not exceeding one month.

226. In trials under this chapter, the provisions of this Code in regard to summons cases shall be followed in respect of summons cases, and the procedure for warrant cases in respect of warrant cases, with the exceptions hereinafter provided.

Procedure for summons and warrant cases applicable, with certain exceptions.

227. In cases where no appeal lies, the Magistrate or Bench of Magistrates need not record the evidence of the witnesses, nor the reasons for passing the judgment, nor draw up a formal charge, but he or they shall enter, in a register to be kept for the purpose, the following particulars:—

Record in cases where there is no appeal.

(*a*) The serial number;

(*b*) The date of the commission of the offence;

(*c*) The date of the report or complaint;

(*d*) The name of the complainant;

(*e*) The

(*e*) The name, parentage and residence of the accused person;

(*f*) The offence complained of or proved;

(*g*) The prisoner's plea;

(*h*) The finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*i*) The sentence; and

(*j*) The date on which the proceedings terminated.

Record in appealable cases.

228. If a Magistrate or Bench of Magistrates, acting under section two hundred and twenty-two, two hundred and twenty-three or two hundred and twenty-four, passes a sentence of more than three months' imprisonment, or of fine exceeding two hundred rupees;

or if a Bench of Magistrates, acting under section two hundred and twenty-five, convicts any person,

such Magistrate or Bench of Magistrates shall, before passing sentence, record a judgment embodying the substance of the evidence on which the conviction was had, and also the particulars mentioned in section two hundred and twenty-seven.

Such judgment shall be the only record in cases coming within this section.

Language of judgment.

229. Records made under section two hundred and twenty-seven and judgments recorded under section two hundred and twenty-eight, shall be written by the presiding officer, either in English or in the language of the district in which the trial was held, or, by direction of the Court to which such presiding officer is immediately subordinate, in the language of the presiding officer.

Bench of Magistrates may be empowered to employ clerk.

230. The Local Government may authorize any Bench of Magistrates empowered to try offences summarily to prepare the aforesaid record or judgment by means of an officer of such Court, and the record or judgment so prepared shall be signed by each member of such Bench present, conducting the proceedings.

CHAPTER XIX.

CHAPTER XIX.

TRIAL BY COURT OF SESSION.

231. No Court of Session shall take cognizance of any offence, as a Court of original criminal jurisdiction, unless the accused person has been committed by a Magistrate duly empowered in that behalf, except in the cases referred to in section four hundred and seventy-two.

Cognizance of offences by Court of Session.

232. All trials before the Court of Session shall be either by jury, or conducted with the aid of two or more assessors.

Trials to be by jury or with assessors.

233. The Local Government may order that the trial of all offences, or of any particular class of offences, before any Court of Session, shall be by jury, in any district; and such Local Government may from time to time revoke or alter such order.

Local Government may order trials before Court of Session to be by jury.

Orders passed under this section shall be published in the official Gazette, and in such other manner as the Local Government from time to time directs.

EXPLANATION.—If an offence triable with assessors is tried by a jury, the trial shall not on that ground merely be invalid. If an offence triable by a jury is tried with assessors, the trial shall not on that ground merely be invalid, unless objection be taken before the Court records its finding.

334. Criminal trials before the Court of Session, in which a European (not being a European British subject) or an American is the accused person, or one of the accused persons, shall be by jury.

Jury for trial of Europeans or Americans.

In such case the jury, if such European or American desire it, shall consist of at least one-half of Europeans, whether European British subjects or not, or Americans, if such a jury can be procured:

Provided that, in any district in which the Local Government has not ordered that all trials before the Court of Session, or trials for all offences of the class within which the trial about to take place falls, shall be by jury, such European or American may elect to be tried without jury.

Election to be tried without jury.

235. In

Trial before Court of Session to be conducted by Public Prosecutor, Government Pleader.

235. In every trial before a Court of Session, the prosecution shall be conducted by the Public Prosecutor, Government Pleader, or by some other officer specially empowered by the Magistrate of the District in that behalf.

Number of jury.

236. In trials by jury before the Court of Session, the jury shall consist of such uneven number, not being less than three nor more than nine, as the Local Government, by any general order applicable to any particular district or to any particular classes of offences in that district, directs.

Commencement of trial.

237. When the Court is ready to commence the trial, the accused person shall be brought before it, and e charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried.

Plea of guilty.

If the accused person pleads guilty, the plea shall be recorded, and he may be convicted thereon.

Refusal to plead or claim to be tried.

238. If the accused person refuses to, or does not, plead, or if he claims to be tried, the Court shall proceed to choose jurors or assessors as hereinafter directed, and to try the case.

Assessors how chosen.

239. When the trial is to be with assessors, the assessors shall be chosen, as the Judge thinks fit, from the persons summoned to act as assessors.

Jurors to be chosen by lot.

240. When the trial is to be by jury, the jury shall be chosen by lot from the persons summoned to act as jurors.

Jury for trial of persons not Europeans or Americans.

241. In a trial by jury, before the Court of Session, of a person not being a European or an American, at least one-half of the jury shall, if the accused person desire it, consist of persons who are neither Europeans nor Americans.

Jury when European or American charged jointly with one of another race.

242. In any case before the Court of Session, in which a European or American is charged jointly with a person of any other race, such other person shall, if he desire it, be tried separately, if the European or American claims to be tried by a jury consisting of at least one-half of Europeans and Americans.

243. As

243. As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused person shall be asked if he objects to be tried by such juror. Names of jurors to be called.

Objection may then be made to such juror by the accused person, or by the Public Prosecutor, Government Pleader, or other person appointed to conduct the prosecution, and the grounds of objection shall be stated. Objections to jurors.

Any objection made to a juror shall be decided by the Court, and the decision of the Court shall be final.

If an objection be allowed, the place of such juror shall be supplied by any other juror attending in obedience to a summons; or, if there be no such juror present, then by any other person present in the Court whose name is on the list of jurors, or whom the Court considers a proper person to serve on the jury, provided no objection to such juror or other person be made and allowed.

244. Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:— Grounds of objection.

(1) any ground of disqualification within section four hundred and five;

(2) standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused;

(3) being in the employment of any of such persons;

(4) being plaintiff or defendant against any of such persons in any civil suit;

(5) having complained against, or having been accused by, any of such persons in any criminal prosecution;

(6) any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favour to, any of such persons, or which renders such person improper as a juror.

245. The

Juror to understand the language in which evidence is given or interpreted.

245. The Judge shall not allow any person to serve on the jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of jury.

246. When the jury has been completed, they shall appoint one of their number to be foreman.

It shall be the duty of the foreman to preside in the debates of the jury, to deliver the verdict of the jury, and to ask any information from the Court that may be required by the jury.

If a majority of the jury do not agree in the appointment of a foreman, he shall be named by the Court.

Examination of witnesses.

247. The witnesses shall then be examined, cross-examined and re-examined according to the law for the time being relating to the examination of witnesses.

Examination of accused before Magistrate to be evidence.

248. The examination of the accused person before the committing Magistrate shall be given in evidence at the trial.

Evidence given at the preliminary inquiry admissible.

249. When a witness is produced before the Court of Session or High Court, the evidence given by him before the committing Magistrate may be referred to by the Court if it was duly taken in the presence of the accused person, and the Court may, if it think fit, ground its judgment thereon, although the witnesses may at the trial make statements inconsistent therewith.

EXPLANATION.—This section shall not authorize the Court to refer to the record of the evidence given by a witness who is absent, except in the cases in which such evidence may be referred to under the Indian Evidence Act, 1872, or other law in force for the time being upon the subject of evidence.

Examination of accused.

250. The Court may from time to time, at any stage of the trial, examine the accused person, and shall question him generally on the case after the witnesses for the prosecution have been examined, and before he is called on for his defence.

251. When

251. When the examination of the witnesses for the prosecution and the examination of the accused person is concluded, the accused person shall be asked whether he means to call witnesses. If he says that he does not, the prosecutor may sum up his case. The Court may then, if it thinks that there are no grounds for proceeding, Defence.

in a case tried with assessors, record a finding, or,

in a case tried by a jury, instruct the jury to return a verdict of acquittal.

If the Court considers that there are grounds for proceeding, it shall call on the accused person to state his grounds of defence and produce his witnesses.

The accused person, or his Counsel or authorized agent, may then state the case for the defence, and may examine the witnesses, if any, produced for the defence, and at the conclusion of such examination may sum up his case.

252. If any evidence is adduced on behalf of the accused person, the officer conducting the prosecution shall be entitled to reply. Prosecutor's right of reply.

253. Whenever, in the opinion of the Court, it is proper and convenient that the jury or assessors should view the place in which the offence charged is said to have been committed, or any other place in which any other transaction material to the inquiry in the trial took place, an order shall be made to that effect, and the jury or assessors shall be conducted in a body, under the care of an officer of the Court, to such place, which shall be shown to them by a person appointed by the Court. View by jury or assessors.

Such officer shall not suffer any other person to speak to, or hold any communication with, any of the jury or assessors; and they shall, when the view is finished, be immediately conducted back into Court.

254. If, in the course of a trial by jury, at any time prior to the finding, any juror, from any sufficient cause, is prevented from attending through the trial, Procedure when juror becomes unable to attend.

or if any juror absents himself, and it is not possible to enforce his attendance,

a new

a new juror shall be added, or the jury shall be discharged and a new jury empannelled,

and in either case the trial shall commence anew.

Assessors' opinion, and charge to jury.

255. When the case for the defence and the prosecutor's reply, if any, are concluded, the Court shall proceed—

in cases tried with assessors, to ask the assessors their opinion, and shall record it:

in cases tried by jury, to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

A statement of the Judge's direction to the jury shall form part of the record.

Duty of Judge.

256. It is the duty of the Judge to decide all questions of law, and especially all questions as to the relevancy of facts which it is proposed to prove, the admissibility of evidence, or the propriety of questions asked by parties or their agents, which may arise in the course of the trial; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

to decide upon the meaning and construction of all documents given in evidence at the trial;

to decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

to decide whether any question which arises is for himself or for the jury; and upon this point his decision shall be final.

The Judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a.*) It is proposed to prove a statement made by a person not called as a witness, under circumstances which render evidence of his statement admissible.

It is for the Judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b.*) It

(*b.*) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the Judge to decide whether the original has been lost or destroyed.

257. It is the duty of the jury— Duty of jury.

(1) to decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the Judge, to be returned;

(2) to determine the meaning of all technical terms and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not;

(3) to decide all questions declared by the Indian Penal Code, or any other law, to be questions of fact;

(4) to decide whether general, indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the Judge to decide their meaning.

Illustrations.

(*a.*) A is tried for the murder of B.

It is the duty of the Judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the Judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b.*) The question is, whether a person entertained a reasonable belief on a particular point. Whether work was done with reasonable skill, or due diligence.

Each of these is a question for the jury.

258. If a juryman or assessor is personally acquainted with any relevant fact, it is his duty to inform the Judge that such is the case, whereupon he may be examined, cross-examined and re-examined, in the same manner as any other witness. When juryman or assessor may be examined.

259. If,

Procedure when assessor is unable to attend.

259. If, in the course of a trial with the aid of assessors, at any time prior to the finding, any assessor is, from any sufficient cause, prevented from attending through the trial, the trial shall proceed with the aid of the other assessor or assessors.

If all the assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

Jury or assessors to attend at adjourned sitting.

260. If a trial is adjourned, the jury or assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting, until the conclusion of the trial.

Cases tried with assessors.

261. In cases tried with assessors, the Court shall proceed to pass judgment of acquittal or conviction, having considered the opinions of the assessors, but not being bound to conform to them. If the accused person is convicted, the Court shall proceed to pass sentence on him according to law.

Decision vested in Judge.

262. The opinion of each assessor shall be given orally and shall be recorded in writing by the Court; but the decision is vested exclusively in the Judge.

Cases tried by juries.

263. In cases tried by jury, the jury may retire to consider their verdict. It shall be the duty of an officer of the Court not to suffer any person to speak to, or hold any communication with, any member of such jury. When the jury have considered their verdict, the foreman shall inform the Court what is their verdict, or what is the verdict of a majority.

Verdict to be given on each charge. Judge may question jury.

The jury shall return a verdict on all the charges on which the accused is tried, and the Court may ask them such questions as are necessary to ascertain what their verdict is. Such questions and the answers to them shall be recorded.

Procedure where jury differ.

If the jury are not unanimous, the Judge may require them to retire for further consideration. After such a period as the Judge considers reasonable, the jury may deliver their verdict, although they are not unanimous.

If

If the Court does not think it necessary to dissent from the verdict of a majority of the jurors, it shall give judgment accordingly. If the accused person is acquitted, the Court shall record judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence on him according to law.

If the Court disagrees with the verdict of the jurors, or of a majority of such jurors, and considers it necessary for the ends of justice to do so, it may submit the case to the High Court, and may either remand the prisoner to custody, or admit him to bail.

The High Court shall deal with the case so submitted as with an appeal, but it may convict the accused person on the facts, and if it does so, shall pass such sentence as might have been passed by the Court of Se. ion.

Adjournment.

Postponement of trial.

264. The Court may, in its discretion, postpone the hearing of the case; and may, from time to time, adjourn the trial, if it considers that such adjournment is proper and will promote the ends of justice.

The same jury or assessors may try in succession several offenders.

265. The same jury may try, or the same assessors may aid in the trial of, as many accused persons successively as to the Court seems fit.

PART VI.

APPEAL, REFERENCE AND REVISION.

CHAPTER XX.

APPEALS.

Appeals from officers exercising powers less than those of a Magistrate of the first class.

266. Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced by a competent Magistrate of the second class under section forty-six, may appeal to the Magistrate of the District, or to a Magistrate of the first class who has been empowered by the Local Government to hear such appeals.

267. Any

Appeals in bad livelihood cases.

267. Any person required by a Magistrate of the first class to give security for good behaviour, under section five hundred and four or section five hundred and five, may appeal to the Magistrate of the District.

Appeals from convictions in contempt cases.

268. Any person convicted by any Civil, Criminal or Revenue Court, under chapter XXXII of this Act, may appeal to the Court to which decrees or orders made in such Court are ordinarily appealable, whatever may be the amount of the sentence passed, subject to the rules provided in sections two hundred and seventy-five, two hundred and seventy-seven, two hundred and seventy-eight, two hundred and eighty, two hundred and eighty-one and two hundred and eighty-two.

An appeal from such conviction by a Small Cause Court may be made to the Court of Session within whose Sessions Division such Court is situate.

Appeal from Magistrates.

269. Any person convicted on a trial held by the Magistrate of the District or other Magistrate of the first class, or any person sentenced under section forty-six by a competent Magistrate of the first class, may appeal to the Court of Session.

The appellant shall, in every case, give notice of appeal to the Magistrate of the District, who shall, if necessary, instruct the Public Prosecutor, Government Pleader or other officer empowered by Government or by the Magistrate of the District to prosecute the case.

Appeals by persons convicted by officers invested under section 36.

270. Any person convicted on a trial held by any officer invested with the power described in section thirty-six may appeal to the High Court, if it appear from the sentence awarded that such officer was in such trial exercising such special powers. No appeal in such case shall lie to the Court of Session.

Appeals from convictions of Assistant Sessions Judges.

Any person convicted by an Assistant Sessions Judge may appeal to the Sessions Judge, if the sentence appealed against does not exceed three years' imprisonment.

A sentence of an Assistant Sessions Judge, confirmed under section eighteen by the Sessions Judge, may be appealed to the High Court.

271. Any

271. Any person convicted on a trial held by a Sessions Judge may appeal to the High Court.

Appeals by persons convicted by Session Court.

The appeal may be on a matter of fact as well as on a matter of law.

If the conviction was in a trial by jury, the appeal shall be admissible on a matter of law only.

If such person be sentenced to death, the Sessions Court shall inquire whether he wishes to appeal, and if he signifies his intention to appeal, the Court shall inform him that his appeal must be made within seven days, and shall delay the transmission of the reference hereinafter required for a reasonable time, not exceeding seven days, to allow of the appeal and reference being made at the same time.

When it appears that the execution of the sentence should not be delayed, the Sessions Court may record its reasons and forward the reference at once.

In no case requiring confirmation shall the High Court grant a longer delay than is herein allowed for the presentation of an appeal.

Where the reasons given by the Sessions Court for forwarding the reference at once are sufficient, the High Court shall decide the case in the absence of an appeal.

When, under the provisions of the law in force, judgments or orders made or passed by the High Court are made or passed, either in appeal, reference or revision, by a Court consisting of more than one Judge, any difference of opinion shall be settled by adding, when the High Court is composed of more than two Judges and the Court is equally divided, one or more Judges, and in such event the judgment or order shall follow the opinion of the majority of the Judges.

272. The Local Government may direct an appeal by the Public Prosecutor or other officer specially or generally appointed in this behalf, from an original or appellate judgment of acquittal; but in no other case shall there be an appeal from a judgment of acquittal passed in any Criminal Court.

No appeal in case of acquittal, except on behalf of Government.

Such

Such appeal shall lie to the High Court, and the rules of limitation shall not apply to appeals presented under this section.

The High Court may, in any case so appealed, direct a new trial by another Court, or may pass such judgment, sentence or order as may be warranted by law.

No appeal in petty cases.

273. There shall be no appeal in cases in which a Court of Session, or the Magistrate of a District or other Magistrate of the first class, passes a sentence of imprisonment not exceeding one month only, or of fine not exceeding fifty rupees only, or of whipping only.

There shall be no appeal from a sentence of imprisonment passed by such Court or officer in default of payment of fine, when no substantive sentence of imprisonment has been passed.

Where an accused person has been convicted on his own plea, whether on a trial with assessors or by jury, there is no appeal, except as to the extent or legality of the sentence.

Appeals from summary convictions.

274. There shall be no appeal in cases tried summarily, in which a Magistrate of the District, or a Magistrate or Bench of Magistrates invested with the powers of a Magistrate of the first class, empowered to act under section two hundred and twenty-two, two hundred and twenty-three or two hundred and twenty-four, passes a sentence of imprisonment not exceeding three months only, or of fine not exceeding two hundred rupees only, or of whipping only.

An appeal may be brought against any sentence referred to in section two hundred and seventy-three or two hundred and seventy-four, by which any two or more of the punishments therein mentioned are combined; but not against a sentence in which imprisonment is awarded in default of payment of fine and in addition thereto;

nor against any sentence which would not otherwise be liable to appeal because the person convicted is ordered to find security to keep the peace.

The

The provisions of this and the last preceding section shall not apply to appeals from orders passed on European British subjects under section seventy-four or seventy-six.

Saving of sentences on European British subjects.

275. Every petition of appeal shall be accompanied by a copy of the judgment or order appealed against.

Copy of judgment to accompany petition.

276. A copy of the judgment or other order passed by any Criminal Court, and, in cases tried by jury, of the Judge's charge to the jury, shall be furnished without delay on the application of any person affected by such sentence or order.

Copy of judgment or order to be furnished.

Such copy shall be made at the expense of the person applying for it, unless he is in jail, or unless the Court, for some special reason, sees fit to grant such copy free of expense.

277. If the party appealing be in jail, he shall be at liberty to present his petition of appeal, and the copy of the judgment or order appealed against, to the Magistrate or other officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Procedure when appellant in jail.

278. The Appellate Court shall fix a reasonable time within which the appellant or his counsel or authorized agent may appear, and it may reject the appeal if, on a perusal of the petition of appeal and the copy of the judgment or order appealed against, and after hearing the appellant or his counsel or authorized agent, if he appears, it considers that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against.

Rejection of appeal.

Before rejecting the appeal, the Court may call for and peruse all or any part of the proceedings of the lower Court, but shall not be bound to do so.

279. If the Appellate Court decide to hear the appeal, it shall cause notice to be given to the appellant, and, if the appeal be to the Session or High Court, shall also give notice to the Magistrate of the District, who shall inform, if necessary, the Public Prosecutor, Government Pleader or other officer

Notice of appeal.

officer empowered by Government in that behalf, of the day on which such appeal will be heard.

Appellate Court may alter or reverse finding and sentence, or enhance a sentence.

280. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the appellant, his counsel or agent, if they appear, and the Public Prosecutor, Government Pleader or other officer empowered by Government or by the Magistrate of the District in that behalf, if he appears, may alter or reverse the finding and sentence or order of such Court, and may, if it see reason to do so, enhance any punishment that has been awarded.

Provided that, if the appeal is from the sentence of a Magistrate of any class, the Appellate Court shall not inflict a greater punishment than might have been inflicted by a Magistrate of the first class.

Suspension of sentence pending appeal.

Release of appellant on bail.

281. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and, if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

The period during which the sentence is suspended shall be omitted in reckoning the completion of the punishment.

Appellate Court may make or direct further inquiry.

282. In any case in which an appeal has been allowed, the Appellate Court, if it thinks further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the appellant to be necessary, may either make such further inquiry and take such additional evidence itself, or may direct such inquiry to be made and additional evidence to be taken.

If the Appellate Court takes further evidence and passes judgment and sentence, no fresh right of appeal arises in respect of such sentence.

When the evidence has not been taken before itself, the result of the further inquiry and the additional evidence shall be certified to the Appellate Court, and such Court shall thereupon proceed to dispose of the appeal.

Unless

Unless the Appellate Court otherwise directs, the presence of the appellant may be dispensed with when the further inquiry is made or evidence taken.

The provisions of this Act relating to summoning and enforcing the attendance of witnesses and their examination shall, so far as may be, apply to witnesses examined under this section.

Finding or sentence when reversible by reason of error or defect in charge or proceedings.

283. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal on account of any error or defect, either in the charge or in the proceedings on or before trial, or on account of the improper admission or rejection of any evidence, or by any misdirection in any charge to a jury, unless such error or defect has occasioned a failure of justice, either by affecting the due conduct of the prosecution, or by prejudicing the prisoner in his defence.

No irregularity in the proceedings up to trial is a sufficient ground for reversing any judgment, sentence or order made or passed in a trial properly held.

Appellate Court may reduce punishment.

In case the accused person has been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Procedure in case of conviction by Court not having jurisdiction.

284. When any Court has convicted a person of an offence not triable by such Court, the Appellate Court shall annul the conviction and sentence of such Court, and direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

285. Judgments, sentences and orders passed by an Appellate Court upon appeal shall be final, except in the cases provided for in sections two hundred and seventy-two and two hundred and ninety-seven.

286. No

Unless otherwise provided, no appeal to lie from judgment, order or sentence of Criminal Court.

286. No appeal shall lie from any judgment, sentence or order of a Criminal Court, except in the cases provided for by this Act or by any law for the time being in force.

Illustrations.

(*a.*) There is no appeal against an order refusing to grant compensation, or to grant an enhanced award.

(*b.*) There is no appeal against an order of a competent Magistrate dismissing a complaint.

(*c.*) There is no appeal against an order requiring a person to furnish security to keep the peace.

(*d.*) There is no appeal against an order requiring a person to furnish security to be of good behaviour, when such order is passed by the Magistrate of the District.

(*e.*) There is no appeal against an order passed under chapter XXXIX; nor against a report by a jury under that chapter.

(*f.*) There is no appeal against an order of maintenance.

(*g.*) There is no appeal against an order placing a name on the jury list.

(*h.*) There is no appeal against an order by a Court of Session fining a juror or an assessor for non-attendance.

(*i.*) There is no appeal against the order of a competent Court refusing to order a commitment.

(*j.*) There is no appeal against an interlocutory order, such as a claim to appear by agent.

(*k.*) There is no appeal from an order to pay compensation under section 22 of Act I of 1871 (*An Act to consolidate and amend the law relating to trespasses by Cattle*).

CHAPTER XXI.

REFERENCE.

Sentence of death.

287. If the Court of Session pass sentence of death, the proceedings shall be referred to the High Court, and the sentence shall not be executed without its confirmation by the High Court.

If the accused person is convicted of an offence punishable with death, and the Court sentences him to any punishment other than death, the Court shall, in its judgment, state the reason why sentence of death was not passed.

288. In

288. In any case so referred, whether tried with assessors or by jury, the High Court may either confirm the sentence, or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge, or may acquit the accused person.

Power of High Court to confirm sentence or annul conviction.

289. If the High Court think further inquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, it may direct such inquiry to be made, or such additional evidence to be taken.

Power to direct further inquiry, &c.

Unless the Court of Reference otherwise directs, the presence of the convicted person may be dispensed with when the further inquiry is made or evidence taken, and neither under this section nor under section two hundred and eighty-two is such inquiry to be made or evidence taken in the presence of jurors or assessors.

The result of the further inquiry and the additional evidence shall be certified to the High Court, and the High Court shall thereupon proceed to pass judgment of acquittal, or to confirm the sentence, or to pass such sentence as it thinks fit.

290. In every case so referred to the High Court, the confirmation of the sentence, or any new sentence or order passed by the High Court, shall, when such High Court consists of two or more Judges, be determined and signed by at least two Judges of such Court.

Confirmation or new sentence to be signed by two Judges.

291. When a High Court of reference, revision or appeal consists of a single Judge, such Judge shall have all the powers conferred upon two or more Judges of the High Court by this chapter.

When High Court consists of one Judge.

CHAPTER XXII.

Superintendence and Revision.

292. The High Court may make and issue general rules—

Power of High Court to make rules.

for keeping all books, entries and accounts to be kept in all Criminal Courts subordinate to it, and

for

for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts ;

and may also frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it thinks that a form should be provided ;

and from time to time may alter any such rule or form ;

and, with the concurrence of the Local Government, may make and issue general rules for regulating the practice and proceedings of all Criminal Courts subordinate to it, and, with the like sanction, may alter any such rule ;

and a High Court not established by Royal Charter may, with the concurrence of the Local Government, make and issue rules for regulating the practice and proceedings of that Court, and, with the like sanction, may alter any such rule :

Provided that such rules and forms be not inconsistent with the provisions of this Act, or of any other law in force for the time being.

All rules framed by the Court and all repeals and alterations thereof under this section, shall be published in the official Gazette.

Calendars of trials by Subordinate Courts.

293. All Subordinate Courts shall send to the High Court such periodical statements or calendars of trials held by such Courts as the High Court prescribes, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

Power to call for records of Subordinate Courts.

294. The High Court may call for and examine the record of any case tried by any Subordinate Court, for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court.

Powers of Court of Session and Magistrate to call for record of Subordinate Courts.

295. Any Court of Session or Magistrate of the District may, at all times, call for and examine the record of any Court subordinate to such Court or Magistrate, for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and

SCHEDULE I.

ENACTMENTS REPEALED.

PART III.—REGULATIONS.

Number and year.	Title.	Extent of repeal.
	BENGAL REGULATIONS.	
IX of 1793 ...	A Regulation for re-enacting, with Alterations and Modifications, the Regulations passed by the Governor General in Council on the 3rd December 1790, and subsequent Dates, for the Apprehension and Trial of Persons charged with Crimes or Misdemeanors.	Sections three and thirty-four.
IX of 1804 ...	A Regulation for altering the denomination of the Court of Circuit and the Provincial Court of Appeal for the Division of the Ceded Provinces: for the Administration of Justice in Criminal Cases, in the Conquered Provinces in the Doab and on the Right Bank of the River Jumna, and in the Territory ceded to the Honorable the East India Company in Bundelcund by the Peishwa.	So much as has not been repealed.
VI of 1810 ...	A Regulation for defining the penalties to which Zemindars and others shall be subject for neglecting to give due information of robberies, and for harbouring robbers.	Ditto.
XVI of 1810 ...	A Regulation to amend the existing Rules for the Appointment of Zillah and City Magistrates; to provide for the Appointment of Joint and Assistant Magistrates; and to alter the provisions in force for the Payment of a fixed Reward on the Conviction of Public Offenders.	Ditto.
I of 1811	A Regulation for making more adequate Provision for the punishment of persons found guilty of the Offence of breaking into Houses, Tents or Boats; for subjecting to exemplary Punishment Persons receiving or purchasing Plundered or Stolen Property; and for granting licenses to Gold or Silversmiths, Braziers or Coppersmiths, Ironsmiths, Pawnbrokers, retail Venders of Brass or Copper-wares, and Pykars or itinerant dealers in Second-hand Articles.	So much as has not been repealed.

SCHEDULE I.

ENACTMENTS REPEALED.

PART III—REGULATIONS.—*(continued).*

Number and year.	Title.	Extent of repeal.
	BENGAL REGULATIONS.—*(concluded).*	
III of 1812	A Regulation for amending some of the Rules at present in force in regard to the conduct of inquiries into charges of a criminal nature, and for establishing additional provisions with a view to the more effectual apprehension of Criminals.	So much of section four as has not been repealed.
VIII of 1814	A Regulation for extending the Provision contained in Clause Second, Section IV, Regulation III, 1812, to cases of Murder, Arson and Theft.	So much as has not been repealed.
XX of 1817	A Regulation for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed for the Guidance of Darogahs and other Subordinate Officers of Police; for modifying the existing Rules concerning the Resistance or Evasion of Criminal Process, and for requiring further aid to the Police in certain cases, from Proprietors and Farmers of Land and their Local Managers, as well as from the Mundals and other Heads of Villages.	Section thirty-three, clauses one and two.
	MADRAS REGULATIONS.	
IX of 1816	A Regulation for reducing into one Regulation certain Rules which have been passed regarding the Office of the Zillah Magistrate, for modifying and defining his Powers, and for transferring the Office of Zillah Magistrate from the Judge to the Collector of the Zillah.	Sections three, four and five.
II of 1827	A Regulation for constituting the Assistant Judges appointed under Regulation I, 1827, Joint Criminal Judges of the Zillahs in which they may be stationed, and for defining the Extent to which the Powers of Magistrate shall be exercised by Subordinate Collectors.	So much as has not been repealed.

SCHEDULE I.

ENACTMENTS REPEALED.

PART III.—REGULATIONS.—(*concluded*).

Number and year.	Title.	Extent of repeal.
	MADRAS REGULATIONS.—(*concluded.*)	
VIII of 1827	A Regulation for granting to Native Judges Jurisdiction in Criminal Cases.	So much as has not been repealed.
	BOMBAY REGULATIONS.	
XII of 1827	A Regulation for the establishment of a system of Police throughout the Zillahs subordinate to Bombay, for providing Rules for its Administration, and for defining the Duties and Powers of all Police Authorities and Servants.	Section ten, clause four; so much of section thirteen as has not been repealed, and section thirty-seven, clause three.
XIII of 1827	A Regulation for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof.	Sections one, two, three, seven, eight, nine, fourteen and fifteen. Sections twenty-seven and twenty-eight.
III of 1830	A Regulation rescinding Regulations VIII and XII of 1828, and vesting the Criminal Judges with the Powers and Functions of Session Judges.	Sections two and six.
IV of 1830	A Regulation rescinding such Parts of Regulation XII of 1827 as vest the Criminal Judge with Police Jurisdiction of the Magistrate and his Assistants.	Section two.
VIII of 1831	A Regulation for modifying the Jurisdiction of Session Judges and Judicial Commissioners.	The whole.

SCHEDULE II.

FORMS OF SUMMONS, WARRANTS, BONDS AND RECOGNIZANCES.

A.

FORM OF SUMMONS (*section* 152).

To *A. B.*, of

Whereas your attendance is necessary to answer to a complaint of *(state shortly the offence complained of)*: You are hereby required to appear in person or by authorized agent, as the case may be, before the [Magistrate] of on the day of . Herein fail not.

(Signature and seal.)

Dated the day of

B.

FORM OF WARRANT *(section* 159*)*.

To *(name and designation of the person or persons who are to execute the warrant)*.

Whereas of is accused of the offence of *(state the offence)*: You are hereby directed to apprehend the said and produce him before me.

Herein fail not.

(Signature and seal.)

[*This warrant may be endorsed as follows* :—]

If the said shall give bail, himself in the sum of , with one surety in the sum of (*or* two sureties each in the sum of), to appear before me on the day of , he may be released.

(Signature.)

Dated

C.

FORM OF WARRANT OF COMMITMENT FOR INTERMEDIATE CUSTODY (*sections* 196, 197 *and* 303).

To , Jailor of

Whereas of is charged with *(state the offence in respect of which the prisoner is charged)*, and has been committed to take his trial before the Court of at

You

You are hereby required to receive the said
into your custody and to produce him before the said Court when so required.

(Signature.)
(Office and powers.)

Dated

D.

FORM OF WARRANT OF COMMITMENT *(section 303)*.

To , Jailor of

Whereas of was convicted before me *(name and official designation)* of the offence of *(mention the offence, quoting Act and section)*, and was sentenced to *(state the punishment fully and distinctly, mentioning its nature and extent)*: You are hereby required to receive the said
into your custody in the said jail of , together with this warrant, and there carry the aforesaid sentence into execution according to law.

(Signature.)

Dated the day of

E.

FORM OF BOND TO KEEP THE PEACE (*section* 193).

Whereas I, , inhabitant of , have been called upon to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said that he shall not commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

F.

F.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*sections* 130 *and* 360).

I, , of , do hereby bind myself to appear at , in the Court of , at o'clock on the day of next, and then and there to prosecute (*or, as the case may be*, to prosecute and give evidence, *or* to give evidence) in the matter of a charge of against one *A. B.*, and to attend at the said Court from day to day, or as I may be otherwise directed by the presiding officer; and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

G.

FORM OF BOND FOR GOOD BEHAVIOUR (*section* 509).

Whereas I, , inhabitant of , have been called to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above-said that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of rupees.

(Signature.)

Dated

SCHEDULE III.

SCHEDULE III.

CHARGES.

(I.)—CHARGES WITH ONE HEAD.

(*a.*) I, [*name and office of Magistrate, &c.,*], hereby charge you, [*name of accused person*], as follows:—

(*b.*) That you, on or about the day of , at , waged war against the Queen, and thereby committed an offence punishable under section 121 of the Indian Penal Code, and within the cognizance of the Court of Session. On Penal Code, section 121.

(*c.*) And I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

[*To be substituted for* (*b*).]

(2.) That you, on or about the day of , at , with the intention of inducing the Honourable *A. B.*, Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 124 of the Indian Penal Code, and within the cognizance of the Court of Session. On section 124.

(3.) That you, being a public servant in the Department, directly accepted from [*state the name*], for another party [*state the name*], a gratification, other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 161 of the Indian Penal Code, and within the cognizance of the Court of Session. On section 161.

(4.) That you, on or about the day of , at , committed culpable homicide not amounting to murder, causing the death of , and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session. On section 304

(5.) That you, on or about the day of , at , abetted the commission of suicide by *A. B.*, a person in a state of intoxication, and thereby committed an offence punishable under section 306 of the Indian Penal Code, and within the cognizance of the Court of Session. On section 306.

(6.) That you, on or about the day of , at , voluntarily caused grievous hurt to , and thereby committed an offence punishable under section 325 of the Indian Penal Code, and within the cognizance of the Court of Session. On section 325.

(7.) That

On section 392.

(7.) That you, on or about the day of , at , committed robbery, an offence punishable under section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

On section 395.

(8.) That you, on or about the day of , at , committed dákáiti, an offence punishable under section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

On section 166.

(9.) That you, on or about the day of , at , did [*or* omitted to do, *as the case may be*] , such conduct being contrary to the provisions of Act section , and was known by you to be prejudicial to , and thereby committed an offence punishable under section 166 of the Indian Penal Code, and within the cognizance of the Court of Session.

On section 193.

(10.) That you, on or about the day of , at , in the course of the trial of before , stated in evidence that " " which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

[*In cases tried by Magistrates, substitute* "within my cognizance," *for* "within the cognizance of the Court of Session." *In (d), omit* "by the said Court."]

(II.)—CHARGES WITH TWO OR MORE HEADS.

(*a*). I, [*name and office of Magistrate, &c.,*], hereby charge you, [*name of accused person*], as follows:—

On Penal Code, sections 241 and 242.

(*b*). *First.*—That you, on or about the day of , at , knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly.—That you, on or about the day of , at , knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

(*c*) and

(*c*) and I hereby direct that you be tried by the said Court on the said charge.

[*Signature and seal of the Magistrate.*]

For (*b*). *First.*—That you, on or about the day of , at , committed murder by causing the death of , and thereby committed an offence punishable under section 302 of the Indian Penal Code, and within the cognizance of the Court of Session. On sections 302 and 304.

Secondly.—That you, on or about the day of , at , by causing the death of , committed culpable homicide, and thereby committed an offence punishable under section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

For (*b.*) *First.*—That you, on or about the day of , at , committed theft, and thereby committed an offence punishable under section 379 of the Indian Penal Code, and within the cognizance of the Court of Session. On sections 379 and 382.

Secondly.—That you, on or about the day of , at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly.—That you, on or about the day of , at , committed theft, having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly.—That you, on or about the day of , at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

For (*b*). That you, on or about the day of , at , in the course of the inquiry into before , stated in evidence that " ", and Alternative charges on section 193.

and that you, on or about the
day of
, at , in the course of the trial of before
stated in evidence that "
", one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 193 of the Indian Penal Code, and within the cognizance of the Court of Session.

In trials before Magistrates, substitute "within my cognizance," *for* "within the cognizance of the Court of Session;" *and omit* "by the said Court."

SCHEDULE IV.

EXPLANATORY NOTES.—*1st.*—The entries in the second and sixth columns of the schedule, headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Indian Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

2nd.—The term "Whether bailable or not," in column 5, is to be taken in connection with the provisions of sections 388 and and 389 of this Code.

3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in column 7. For example, a Court of Session may try an offence entered in column 7 as triable by a Magistrate.

4th.—The words "Any Magistrate," as used in column 7, shall include any Magistrate of the first, second or third class.

5th.—In the territories in British India to which the General Regulations of Bengal, Madras and Bombay do not extend, the powers given by this Act shall be exercised by such officers as the Local Government of those territories respectively shall appoint

6th.—The last part of the schedule, headed "Offences against other Laws," shall not be taken to alter or affect any special provision contained in such laws regarding the procedure to be followed in the case of offences made punishable thereby.

7th.—The direction in column 4 is meant to indicate to Magistrates the manner in which the discretion vested in them by sections 148, 149 and 150 is commonly to be used, but it is not to affect the definition of summons cases and warrant cases given in section 4.

CHAPTER V.—OF ABETMENT.

1	2	3	4	5	6	7
Section	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
109	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.

CHAPTER V.—OF ABETMENT—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
110	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor.	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	The same punishment as for the offence abetted.	By the Court by which the offence abetted is triable.
111	When one act is abetted and a different act is done, subject to the proviso.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence intended to be abetted.	Ditto.
113	When an effect is caused by the act abetted different from that intended by the abettor.	Ditto ...	Ditto ...	Ditto ...	The same punishment as for the offence committed.	Ditto.
114	If abettor is present when offence is committed.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
115	Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.

	If an act which causes harm be done in consequence of the abetment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
116	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.	Ditto ...	Ditto ..	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
	If the abettor or the person abetted be a public servant, whose duty is to prevent the offence.	Ditto ...	Ditto .	Ditto ...	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both.	Ditto.
117	Abetting the commission of an offence by the public, or by more than ten persons.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
118	Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed.	Ditto ...	Ditto ..	Not bailable	Imprisonment of either description for 7 years and fine.	Ditto.
	If the offence be not committed ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
119	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed.	Ditto ...	Ditto ...	According as the offence abetted is bailable or not.	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine, or both.	Ditto.
	If the offence be punishable with death or transportation.	Ditto ..	Ditto ...	Not bailable	Imprisonment of either description for 10 years.	Ditto.

CHAPTER V.—OF ABETMENT—*(concluded).*

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	By what Court triable.
	If the offence be not committed ...	May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise.	According as a warrant or summons may issue for the offence abetted.	According as the offence abetted is bailable or not.	Imprisonment extending to quarter part of the longest term, and of any description, provided for the offence, or fine, or both.	By the Court by which the offence abetted is triable.
120	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to quarter part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.
	If not committed	Ditto ...	Ditto ...	Ditto ...	Imprisonment extending to one-eighth part of the longest term, and of the description, provided for the offence, or fine, or both.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE.

121	Waging or attempting to wage war, or abetting the waging of war, against the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable	Death, or transportation for life, and forfeiture of property.	Court of Session.
121A	Conspiring to commit certain offences against the State.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or any shorter term, or imprisonment of either description for ten years.	Ditto.
122	Collecting arms, &c., with the intention of waging war against the Queen.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and forfeiture of property.	Ditto.
123	Concealing with intent to facilitate a design to wage war.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
124	Assaulting Governor General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
124A	Exciting, or attempting to excite, disaffection.	Ditto ...	Ditto ...	Ditto ...	Transportation for life or for any term and fine, or imprisonment of either description for 3 years and fine, or fine.	Ditto.
125	Waging war against any Asiatic power in alliance or at peace with the Queen, or abetting the waging of such war.	Ditto ...	Ditto ...	Ditto ...	Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine.	Ditto.

CHAPTER VI.—OFFENCES AGAINST THE STATE—*(concluded)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
126	Committing depredation on the territories of any power in alliance or at peace with the Queen.	Shall not arrest without warrant.	Warrant ...	Not bailable	Imprisonment of either description for 7 years and fine, and forfeiture of certain property.	Court of Session.
127	Receiving property taken by war or depredation, mentioned in sections 125 and 126.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
128	Public servant voluntarily allowing prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
129	Public servant negligently suffering prisoner of State or War in his custody to escape.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 3 years and fine.	Court of Session or Magistrate of first class.
130	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

131	Abetting mutiny, or attempting to seduce an officer, soldier, or sailor from his allegiance or duty.	May arrest without warrant.	Warrant ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

132	Abetment of mutiny, if mutiny is committed in consequence thereof.	Ditto ...	Ditto ...	Ditto ...	Death or transportation for life, or imprisonment of either description for 10 years and fine.	Ditto
133	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
134	Abetment of such assault, if the assault iscommitted.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
135	Abetment of the desertion of an officer, soldier, or sailor.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
136	Harbouring such an officer, soldier, or sailor, who has deserted.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
137	Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof	Shall not arrest without warrant.	Summons	Ditto ...	Fine of 500 rupees ..	Ditto.
138	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence.	May arrest without warrant.	Warrant ...	Ditto ..	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
140	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier.	Ditto ...	Summons...	Ditto	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code	By what Court triable
143	Being member of an unlawful assembly.	May arrest without warrant.	Summons...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
144	Joining an unlawful assembly armed with any deadly weapon.	Ditto ...	Warrant ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
145	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
147	Rioting	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
148	Rioting armed with a deadly weapon ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
149	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence.	According as arrest may be made without warrant for the offence or not.	According as a warrant or summons may issue for the offence.	According as the offence is bailable or not.	The same as for the offence.	By the Court by which the offence is triable.

and as to the regularity of the proceedings of, such Subordinate Court.

For the purposes of this section, every Magistrate in a Sessions Division shall be deemed to be subordinate to the Sessions Judge of the Division.

Report to High Court.

296. If the Court of Session or Magistrate of the District is of opinion that the judgment or order is contrary to law, or that the punishment is too severe or is inadequate, such Court or Magistrate may report the proceedings for the orders of the High Court:

Provided that, in session cases, if a Court of Session or Magistrate of the District considers that a complaint has been improperly dismissed, or that an accused person has been improperly discharged, by a Subordinate Court, such Court or Magistrate may direct the accused person to be committed for trial.

Powers of revision.

297. If, in any case either called for by itself or reported for orders, or which comes to its knowledge, it appears to the High Court that there has been a material error in any judicial proceeding of any Court subordinate to it, it shall pass such judgment, sentence or order thereon as it thinks fit.

Power to order commitment.

If it considers that an accused person has been improperly discharged, it may order him to be tried, or to be committed for trial;

Power to alter finding and sentence

If it considers that the charge has been inconveniently framed, and that the facts of the case show that the prisoner ought to have been convicted of an offence other than that of which he was convicted, it shall pass sentence for the offence of which he ought to have been convicted;

Proviso as to power of altering finding.

Provided that, if the error in the charge appears materially to have misled and prejudiced the accused person in his defence, the High Court shall annul the conviction, and remand the case to the Court below, with an amended charge, and the Court below shall thereupon proceed as if it had itself amended such charge.

Power to annul conviction.

If the High Court considers that any person convicted by a Magistrate has committed an offence not triable

triable by such Magistrate, it may annul the trial and order a new trial before a competent Court.

Power to annul improper, and to pass proper, sentence.

If it considers that the sentence passed on the accused person is one which cannot legally be passed for the offence of which the accused person has been convicted, or might have been legally convicted upon the facts of the case, it shall annul such sentence and pass a sentence in accordance with law.

If it considers that the sentence passed is too severe, it may pass any lesser sentence warranted by law; if it considers that the sentence is inadequate, it may pass a proper sentence.

Suspension of sentence.

The High Court may, whenever it thinks fit, order that the sentence, in any case coming before it as a Court of Revision, be suspended; and that any person imprisoned under such sentence be released on bail, if the offence for which such person has been imprisoned be bailable.

Powers of revision confined to High Court.

Except as provided in sections three hundred and twenty-eight and three hundred and ninety-eight, no Court, other than the High Court, shall alter any sentence or order of any Subordinate Court, except upon appeal by the parties concerned.

Optional with Court to hear parties.

No person has any right to be heard before any High Court, in the exercise of its powers of revision, either personally or by agent; but the High Court may, if it thinks fit, hear such person either personally or by agent.

Courts may order inquiry.

298. The High Court, the Court of Session or the Magistrate of the District may order any Subordinate Court to inquire into any complaint which has been dismissed under section one hundred and forty-seven.

Order on revision to be certified to lower Court or District Magistrate.

299. Whenever a case is revised by the High Court under this chapter, it shall certify its decision or order to the Court in which the conviction was had or by which the order was passed; or, if the conviction or order was passed by a Magistrate other than the Magistrate of the District, to the Magistrate of the District.

The

The Court or Magistrate to which the High Court certifies its order shall thereupon make such orders as are conformable to the decision of the High Court, and, if necessary, the record shall be amended in accordance therewith:

In cases revised by the High Court under this chapter, the High Court shall not alter or reverse the sentence or order of the Court below, except as herein provided; nor shall it reverse or set aside the verdict of a jury, unless it is of opinion that the jury was misdirected by the Judge. In that case it may set aside the verdict and direct a new trial, if it think fit to do so.

Provisions of section 283 to apply.

300. The provisions of section two hundred and eighty-three shall apply to revision orders under this chapter.

PART VII.

EXECUTION.

CHAPTER XXIII.

Procedure in cases referred to High Court for confirmation.

301. In cases referred by the Court of Session for the confirmation of a sentence of death by the High Court, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Such Court shall, if the sentence be confirmed or commuted, issue a warrant to the officer in charge of the jail in which the prisoner is confined, to cause the sentence or order to be carried into execution; or, in the case of any other orders, shall cause such orders to be carried into effect.

Court of Session to send copy of finding and sentence to District Magistrate.

302. In cases tried by the Court of Session, the Court shall forward a copy of its finding and sentence to the Magistrate of the District in which the trial was held.

If

Warrant of execution.

If the accused person is sentenced to transportation, imprisonment or whipping, the Court shall forthwith forward him, with a warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

The warrant shall state the offence of which the accused person has been convicted, and the period during which he is to be transported or imprisoned, and the nature of the imprisonment or other punishment.

Procedure after sentence passed by Court inferior to Session Court.

In cases tried by any Court inferior to a Court of Session, the Court passing the sentence shall forthwith forward the accused person, with a similar warrant for the execution of the sentence, to the officer in charge of the jail of the district in which the trial was held.

Form and direction of warrant of commitment.

303. Every warrant for the commitment of a person to custody shall be in writing and signed and sealed by the Judge or Magistrate who issues it, and shall be directed to some jailor or other officer or person having authority to receive and keep prisoners, and shall be in the Form (C or D as the case may be) given in the second schedule to this Act or to the like effect.

Warrant with whom to be lodged.

304. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy.

If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

Execution of sentence under section 301 or 302.

305. Upon the receipt of a warrant under section three hundred and one or three hundred and two, the officer in charge of the jail shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Postponement of capital sentence on pregnant woman.

306. If a woman sentenced to death be found to be pregnant, the High Court shall order the execution of the sentence to be postponed, and may commute the sentence.

307. Whenever

307. Whenever an offender is sentenced to pay a fine, the Court which sentences him may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment. Levy of fine.

Such warrant may be executed within the jurisdiction of the Court that issued it, and it shall authorize the distress and sale of any moveable property belonging to the offender without the jurisdiction of the said Court, when endorsed by the Magistrate of the District in which such property is situated.

This section shall not apply to cases in which any special procedure is laid down, by any special or local law in force for the time being, for the recovery of any fine, but shall apply to cases in which no such procedure is laid down, and to all fines not levied when this Act comes into force, but which might have been levied under this section if it had been in force when they were imposed. Section to what cases applicable.

The warrant may be issued either by the Judge or Magistrate who passes the sentence or by his successor in office. Who may issue warrant.

308. Whenever a Criminal Court imposes a fine under any law in force for the time being, or confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms a part, the Court may order the whole or any part of the fine to be paid in compensation, Payment of fine in compensation.

(1) for expenses properly incurred in the prosecution,

(2) for the offence complained of, where such offence can, in the opinion of the Court, be compensated by money.

Such payment shall be made, as the Court thinks fit, to or for the benefit of the complainant, or the person injured, or both.

If

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

In any subsequent civil proceedings relating to the same matter, the Court shall take into account any sum which may have been awarded under this section.

Imprisonment in defualt of payment of fine.

309. In every case punishable under any law in force for the time being with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of sections sixty-four and sixty-five of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine:

Proviso as to cases decided by a Magistrate.

Provided that, in no case decided by a Magistrate, where imprisonment shall have been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

Where a person is sentenced to fine only, the Magistrate may award such term of imprisonment in default of payment of fine as is allowed by law, provided the amount does not exceed the Magistrate's powers under this Act.

Whipping, if awarded in addition to imprisonment, when to be inflicted.

310. When the punishment of whipping is awarded, in addition to imprisonment, by a Court whose sentence is open to revision by a superior Court, the whipping shall not be inflicted until fifteen days from the date of such sentence, or, if an appeal be made within that time, until the sentence is confirmed by the superior Court: but the whipping shall be inflicted immediately on the expiry of the fifteen days, or, in case of an appeal, immediately on the receipt of the order of the Appellate Court confirming the sentence.

311 In

311. In the case of a person of or over sixteen years of age, the punishment of whipping shall be inflicted with such instrument, in such mode, and on such part of the person, as the Local Government directs; and, in the case of a person under sixteen years of age, it shall be inflicted in the way of school discipline with a light ratan.

Mode of inflicting the punishment.

In no case, if the cat-of-nine-tails be the instrument employed, shall the punishment of whipping exceed one hundred and fifty lashes, or, if the ratan be employed, shall the punishment exceed thirty stripes.

The punishment shall be inflicted in the presence of a Magistrate, and also, unless the Court which passed the sentence otherwise orders, in the presence of a Medical Officer.

312. No sentence of whipping shall be carried into execution unless a Medical Officer, if present, certifies, or, if there is not a Medical Officer present, unless it appears to the Magistrate present, that the offender is in a fit state of health to undergo the punishment.

Punishment not to be inflicted if offender not in fit state of health.

If, during the execution of a sentence of whipping, a Medical Officer certifies, or it appears to the Magistrate present, that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

Stay of execution.

No sentence of whipping shall be executed by instalments.

Not to be executed by instalments.

313. In any case in which, under section three hundred and twelve, a sentence of whipping is, wholly or partially, prevented from being carried into execution, the offender shall be kept in custody till the Court which passed the sentence can revise it; and the said Court may, at its discretion, either order the discharge of such offender, or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any period, which may be in addition to any other punishment to which he may have been sentenced for the same offence:

Procedure if punishment cannot be inflicted under the last section.

Provided

Provided that the whole period of imprisonment to which such offender is sentenced shall not exceed that to which he is liable by law, or that which the said Court is competent to award.

Sentence in cases of simultaneous conviction of several offences.

314. When a person is convicted, at one trial, of two or more offences punishable under the same or different sections of any law for the time being in force, the Court may sentence him, for the offences of which he has been convicted, to the several penalties prescribed by such enactment or enactments, which such Court is competent to inflict; such penalties, when consisting of imprisonment or transportation, to commence the one after the expiration of the other.

It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Maximum term of imprisonment.

Provided that in no case shall such person be sentenced to imprisonment for a longer period than fourteen years:

Provided also that, if the case be tried by a Magistrate (other than a Magistrate acting under section thirty-six), the punishment shall not in the aggregate exceed twice the amount of punishment which he is, by his ordinary jurisdiction, competent to inflict.

Trial of previously convicted persons.

315. Whoever, having been convicted of an offence punishable under chapter XII or chapter XVII of the Indian Penal Code with imprisonment for a term of three years or upwards, is again accused of any offence punishable under either of those chapters with imprisonment for a term of three years or upwards, shall ordinarily, if the Magistrate considers him an habitual offender, be committed to the Court of Session:

Proviso.

Provided that, in districts in which the Magistrate of the District has been invested with powers under section

section thirty-six, the accused person may be placed on his trial before such Magistrate of the District.

Currency of sentence on escaped convicts.

316. When sentence is passed on an escaped convict, for such escape or for any other offence, the Court may direct the sentence to take effect immediately, or after such convict has suffered imprisonment or transportation, as the case may be, for a further period, equal to that which remained unexpired of his former sentence at the time of his escape.

Sentence on offender already sentenced for another offence.

317. When sentence is passed on a person already under sentence of imprisonment or transportation, and the sentence is for imprisonment or transportation, the Court shall direct that such imprisonment or transportation shall commence at the expiration of the imprisonment or transportation to which such person has been previously sentenced,

or, if he is undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be for transportation, the Court may direct that the sentence shall commence immediately, or at the expiration of the imprisonment to which such person has been previously sentenced:

Proviso.

Provided that nothing in this section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Confinement of youthful offenders in reformatories.

318. When any person under the age of sixteen years is sentenced by any Criminal Court to imprisonment for any offence, such Court may direct that such offender, instead of being imprisoned in the criminal jail, shall be confined in any reformatory established by the Local Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed by Government.

319. The

Governor General in Council to appoint places to which persons sentenced to transportation may be sent.

Local Government to direct removal of such persons to places appointed.

319. The Governor General of India in Council may, from time to time, appoint a place or places within British India to which persons sentenced to transportation shall be sent: the Local Government, or some officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed; and no sentence of transportation shall specify the place to which the person sentenced is to be transported.

Persons sentenced to transportation while undergoing transportation under previous sentence need not be removed.

320. When sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Local Government to order his removal from the place in which he is so undergoing transportation.

Sentence of death.

321. When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

Power to remit punishment.

322. When any person has been sentenced to punishment for an offence, the Governor General of India in Council, or the Local Government, may at any time, without conditions, or upon any conditions which the person sentenced accepts, remit the whole or any part of the punishment to which he has been sentenced.

If the person to whom a pardon has been given fails to fulfil the conditions prescribed by the Governor General of India in Council, or the Local Government, the Governor General of India in Council or the Local Government, as the case may be, may withdraw such pardon, whereupon such person shall be remanded to undergo the unexpired portion of his sentence.

Power to commute punishment

The Governor General of India in Council, or the Local Government, may also, without the consent of the person sentenced, in substitution for the sentence passed

passed according to law, commute any one of the following sentences for any other mentioned after it:—

death, transportation, penal servitude, imprisonment.

PART VIII.

EVIDENCE.

CHAPTER XXIV.

SPECIAL RULES OF EVIDENCE IN CRIMINAL CASES.

Evidence of medical witness.

323. The examination of a Civil Surgeon or other medical witness, taken and duly attested by a Magistrate, may be given in evidence in any criminal trial, although the person examined is not called as a witness.

Court may summon medical witness.

The Court may summon such Civil Surgeon or other medical witness, if it sees sufficient cause for doing so.

Accused may be convicted on his own plea.

324. If an accused person admits the commission of an offence before a Court competent to try him for such offence, such Court may convict him on his own admission.

Report of Chemical Examiner.

325. Any document purporting to be a report from the Chemical Examiner, or Assistant Chemical Examiner to Government, upon any matter or thing duly submitted to him for examination or analysis and report, in the course of any criminal trial, or in any preliminary inquiry relating thereto, may, if it bears his signature, be used as evidence in any criminal trial.

Genuineness of signature may be presumed.

The Court may presume that the signature of any such document is genuine, and that the person signing it held the office which he professed to hold at the time when he signed it.

Previous conviction or acquittal how proved.

326. Where a previous conviction or acquittal is to be proved against an accused person, application shall be made to the officer in whose custody the records

records of such trial may be. It shall not be necessary to produce the record of the conviction or acquittal of such accused person, or a copy thereof, but an extract may be produced in proof of such conviction or acquittal, if certified, under the hand of the Clerk of the Court or other officer having the custody of the records of the Court in which such conviction or acquittal was had, or by the deputy of such clerk or officer, to be a copy of the charge, finding and sentence, as the case may be.

Record of evidence in the absence of the accused.

327. If an accused person abscond, and after due pursuit cannot be arrested, any Court competent to try or to commit such accused person for trial for the offence complained of may, in his absence, record the statements of the persons acquainted with the facts; and such depositions may, on the arrest of such person, be put in on his trial for such offence, if it is not practicable to procure the attendance of such witnesses.

Convictions on evidence partly recorded by one Magistrate and partly by another.

328. Whenever any Magistrate, after having heard part of the evidence in a case, ceases to exercise jurisdiction in such case and is succeeded by another Magistrate who has and who exercises jurisdiction in such case, such last-named Magistrate may decide the case on the evidence partly recorded by his predecessor and partly recorded by himself, or he may resummon the witnesses and commence afresh:

Provided that the accused person may, when the second Magistrate commences his proceedings, demand that the witnesses shall be resummoned and reheard, in which case the trial shall be commenced afresh:

Provided also that any Court of Appeal or Revision before which the case may be brought,

or, in cases tried by Magistrates subordinate to the Magistrate of the District, the Magistrate of the District, without appeal,

may set aside any conviction passed on evidence not wholly recorded by the Magistrate before whom the conviction was had, if such Court or Magistrate is of opinion that the accused person has been materially prejudiced thereby; and may order a new trial.

329. Whenever,

329. Whenever, from any cause, a Magistrate making an inquiry under chapter XV of this Act is unable to complete the proceedings himself, any other Magistrate having jurisdiction to inquire and to commit may complete the case and proceed as if he had recorded all the evidence himself.

Commitments on evidence partly recorded by one officer and partly by another, valid.

330. Whenever it appears that the attendance of a witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, it shall be competent to a Court of Session or to a High Court to dispense with the personal attendance of such witness.

When a commission may issue.

Such Court of Session or High Court may direct a commission to the Magistrate of the District, or to a Magistrate of the first class, in whose jurisdiction such witness may be. The Magistrate to whom the commission is directed shall proceed to the place where such witness is, or shall summon such witness before himself. Such Magistrate shall take the evidence of such witness in the same manner, and shall have for this purpose, and may exercise, the same powers, as in trials of warrant cases.

Mode of issuing commission.

The prosecutor and the accused person may forward interrogatories, to which the officer to whom the commission is directed shall cause a return to be made, or the prosecutor may appear personally before the Magistrate to whom the commission is directed, or the prosecutor or accused person may so appear by authorized agent.

Prosecutor and accused may examine witness.

Whenever, in the course of a trial before a Magistrate, it shall appear that a commission ought to be issued for the examination of a witness whose evidence is necessary in such trial, such Magistrate shall apply to the Court of Session to which he is subordinate, stating the reasons for the application; and such Court may either issue a commission in the manner hereinbefore provided, or may reject the application.

Procedure when commission is required in Magistrate's cases.

CHAPTER XXV.

CHAPTER XXV.

EVIDENCE HOW TAKEN.

Examination of complainants and witnesses.

331. In all Criminal Courts, complainants and witnesses shall be examined upon oath or affirmation, or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Manner of recording evidence;

332. In inquiries and trials (other than summary trials) under this Act, the evidence of the witnesses shall be recorded by the Magistrate or Sessions Judge, as the case may be, in the following manner.

in summons cases, and in trials by Magistrates of the first and second classes, of certain offences;

333. In summons cases tried before Magistrates, and in cases of the kind referred to in section two hundred and twenty-two, when tried by a Magistrate of the first or second class, otherwise than at a summary trial, the Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds.

Such memorandum shall be written and signed by the Magistrate with his own hand, and shall form part of the record.

If the Magistrate is prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same; and such memorandum shall form part of the record.

in all other cases before Magistrates, and in all proceedings before Courts of Session.

334. In all other cases before Magistrates, and in all proceedings before Courts of Session, the evidence of each witness shall be taken down in writing in the language in ordinary use in the district in which the Court is held, by or in the presence and hearing, and under the personal direction and superintendence, of the Magistrate or Sessions Judge, and shall be signed by the Magistrate or Sessions Judge.

Evidence in English.

When the evidence of a witness is given in English, the Magistrate or Sessions Judge may take it down in that language with his own hand; and an authenticated translation of the same, in the language in ordinary

ordinary use in the district in which the Court is held, shall form part of the record.

If the accused person be a European British subject, or be familiar with the English language, no translation shall be necessary.

Memorandum when evidence not taken down in writing.

In cases in which the evidence is not taken down in writing by the Magistrate or Sessions Judge, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate or Sessions Judge, with his own hand, and shall form part of the record.

If the Magistrate or Sessions Judge is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Local Government may direct evidence to be recorded by Sessions Judge or Magistrate himself in his vernacular;

335. The Local Government may direct that, in any district or part of a district, or in proceedings before any Court of Session, or before any Magistrate or class of Magistrates, the evidence of complainants or witnesses shall be taken down by the Sessions Judge or Magistrate with his own hand in the vernacular language of the Sessions Judge or Magistrate, unless the Sessions Judge or Magistrate be prevented by any sufficient reason from taking down the evidence of any complainant or witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court.

The evidence so taken down shall be signed by the Sessions Judge or Magistrate, and shall form part of the record:

or in English or in language in ordinary use in district.

Provided that, if the vernacular language of the Sessions Judge or Magistrate be not English or the language in ordinary use in the district in which the Court is held, the Local Government may direct him to take down the evidence in the English language, or in the language in ordinary use in the district in which the Court is held, instead of his own vernacular.

336. In

In cases referred to in section 333, Magistrate may record as provided in section 334 or section 335.

336. In cases of the kind referred to in section three hundred and thirty-three, tried before Magistrates, the Magistrate may, if he thinks fit, take down the evidence of any witness in the manner provided in section three hundred and thirty-four, or, if, within the jurisdiction of such Magistrate, the Local Government has made the order referred to in section three hundred and thirty-five, in the manner provided in section three hundred and thirty-five.

Local Government to decide what language is to be held to be in ordinary use.

337. The Local Government may determine what, for the purposes of this Act, shall be held to be the language in ordinary use in any district in which a Court is held.

Form of record of evidence.

338. The evidence taken under section three hundred and thirty-four shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative.

It shall be in the discretion of the Magistrate or Sessions Judge to take down, or cause to be taken down, any particular question and answer, if there appears any special reason for so doing, or if any person who is a prosecutor or a person accused, or his counsel or agent, requires it.

Procedure in regard to evidence when completed.

339. As the evidence of each witness, taken under section three hundred and thirty-four, is completed, it shall be read over to the witness in the presence of the accused person, if in attendance, or of his agent, when his personal attendance is dispensed with and he appears by agent, and shall, if necessary, be corrected.

If the witness deny the correctness of any part of the evidence when the same is read over to him, the Magistrate or Sessions Judge may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

If the evidence be taken down in a language different from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his

his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Interpretation of evidence to accused or his agent.

340. In all cases whatever, when the evidence is given in a lauguage not understood by the accused person, it shall be interpreted to him in open Court in a language understood by him, where he is present in person.

If he appears by agent, and the evidence is given in a language other than the language in ordinary use in the district in which the Court is held, it shall be interpreted to such agent in that language.

In cases in which documents are put in for the purpose of formal proof, it shall be in the discretion of the Court to interpret as much thereof as appears necessary.

Remarks respecting demeanour of witness.

341. Every Sessions Judge or Magistrate recording the evidence of a witness shall record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Of the Examination of Accused Persons.

Accused may be questioned.

342. In all inquiries and trials, a Criminal Court may from time to time and at any stage of the proceedings,

put any questions to the accused person which such Court may think proper.

Accused not punishable for refusal to answer.

343. The accused person shall not be liable to any punishment for refusing to answer, or for answering falsely, questions asked under section three hundred and forty-two, but the Court shall draw such inference as seems just from such refusal.

No influence to be used to induce disclosures.

344. Except as is provided in section three hundred and forty-seven, no influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge.

Accused not to be sworn.

345. No oath or affirmation shall be administered to the accused person.

346. Whenever

Examination of accused how recorded.

346. Whenever an accused person is examined, the whole of such examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers.

When the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate or Sessions Judge, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

In cases in which the examination of the accused person is not recorded by the Magistrate or Sessions Judge himself, he shall be bound, as the examination proceeds, to make a memorandum thereof in the vernacular of the district, or in English, if he is sufficiently acquainted with that language; and such memorandum shall be written and signed by the Magistrate or Sessions Judge with his own hand, and shall be annexed to the record. If the Magistrate or Sessions Judge is precluded from making a memorandum as above required, he shall record the reason of his inability to do so.

The accused person shall sign, or attest by his mark, such record.

If the examination be taken in the course of a preliminary inquiry, and the Court of Session find that the provisions of this section have not been fully complied with, it shall take evidence that the prisoner duly made the statement recorded: Provided that, if the error does not prejudice the prisoner, it shall not be deemed to affect the admissibility of the statement so recorded.

Magistrate may tender pardon to accomplice.

347. The Magistrate of the District, any Magistrate of the first class inquring into the case, or, with the sanction of the Magistrate of the District, any Magistrate duly empowered to commit to the Court of Session, may, after recording his reason for so doing, tender a pardon to any one or more

more of the persons supposed to have been directly or indirectly concerned in, or privy to, any offence specified in column seven of the fourth schedule hereto annexed as triable exclusively by the Court of Session, on condition of his or their making a full, true and fair disclosure of the whole of the circumstances, within his or their knowledge, relative to the crime committed, and every other person concerned in the perpetration thereof.

Any person accepting a tender of pardon under this section shall be examined as a witness in the case, under the rules applicable to the examination of witnesses.

Such person, if not on bail, shall be detained in custody pending the termination of the trial.

A Magistrate having tendered a pardon under this section, and examined the accused person, is precluded from trying the case himself.

High Court or Court of Session may direct tender of pardon.

348. The High Court as a Court of Revision, and the Court of Session after committal but before the commencement of a trial, may, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in, or privy to, any such offence, instruct the committing Magistrate to tender a pardon on the same condition to such person or persons.

The Court of Session, in like manner and on the same condition, may, at any time before judgment is passed, with the view of obtaining on the trial the evidence of any person or persons supposed to have been directly or indirectly concerned in, or privy to, any such offence, tender a pardon to such person or persons.

When Magistrate, Court of Session or High Court may direct commitment of person to whom pardon has been tendered.

349. When a pardon has been tendered under section three hundred and forty-seven or section three hundred and forty-eight, if it appears to the Magistrate before the trial, or to the Court of Session before judgment has been passed, or to the High Court as a Court of Reference or Revision, that any person who has accepted such offer of pardon has not conformed to the conditions under which the pardon was

was tendered, either by wilfully concealing anything essential, or by giving false evidence, such Magistrate or Court may commit, or direct the commitment of, such person, for trial for the offence in respect of which the pardon was so tendered.

The statement made by a person under pardon, which pardon has been withdrawn under this section, may be put in evidence against him.

CHAPTER XXVI.

OF SECURING THE ATTENDANCE OF WITNESSES.

Procedure for obtaining attendance of witnesses.

350. The following procedure shall be pursued in order to obtain the attendance of witnesses before a Magistrate or Criminal Court.

Power to summon material witness or examine person present.

351. Any Court or Magistrate may, at any stage of any proceeding, inquiry or trial, summon, in the manner provided by chapter XII, any witness, or examine any person in attendance though not summoned as a witness, and it shall be its or his duty to do so if the evidence of such person appears essential to the just decision of the case.

When warrant of arrest may issue in first instance.

352. If a Court or Magistrate has reason to believe that any witness whose attendance is required will not attend to give evidence without being compelled to do so, it or he may, instead of issuing a summons, issue a warrant of arrest in the first instance.

Procedure when warrant cannot be served.

353. If such warrant cannot be executed, and the Court or Magistrate considers that the witness absconds or conceals himself for the purpose of avoiding the service thereof, it or he may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of such witness' ordinary place of abode.

If the witness does not attend at the time and place named in such proclamation, the Court or Magistrate may order the attachment of any moveable property belonging to such witness, to such amount as seems reasonable, not being in excess of the amount of costs of attachment and of any fine to which the witness may

may be liable under the provisions of the following section.

Such order shall authorize the attachment of any moveable property within the jurisdiction of the Court or Magistrate by whom it was made; and it shall authorize the attachment of any moveable property without the jurisdiction of the said Court or Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

Release of attached property of witness appearing and satisfying Court or Magistrate.

354. If the witness appears and satisfies such Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court or Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as to such Court or Magistrate seems fit.

Sale of property of witness not appearing or not satisfying Court or Magistrate.

If such witness does not appear, or, appearing, fails to satisfy the Court or Magistrate that he did not abscond or conceal himself for the purpose of avoiding the execution of the warrant, and that he had not such notice of the proclamation as aforesaid, the Court or Magistrate may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which may be imposed upon such witness under the provisions of section one hundred and seventy-two of the Indian Penal Code.

If the witness pays to such Court or Magistrate the costs and fine as aforesaid, his property shall be released from attachment.

Arrest of person disobeying summons.

355. If any person summoned to give evidence neglects or refuses to appear at the time and place appointed by the summons, and no reasonable excuse is offered for such neglect or refusal, the Court or Magistrate, upon proof of the summons having been duly served, may issue a warrant under his hand and seal, to bring such person before him to testify as aforesaid.

356. If

Committal of person refusing to answer.

356. If any person summoned or brought before a Magistrate refuses to answer such questions as are put to him, without offering any reasonable excuse for such refusal, such Magistrate may, by warrant under his hand and seal, commit him to custody for any term not exceeding seven days, unless in the meantime such person consents to be examined and to answer; after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section four hundred and thirty-five or four hundred and thirty-six.

INQUIRIES.

In inquiries preliminary to commitment.

357. In inquiries preliminary to commitment to a Court of Session or High Court, the Magistrate shall procure the attendance of the witnesses for the prosecution as in cases usually tried upon warrant; and it shall be in his discretion to summon any witness offered on behalf of the accused person to answer or disprove the evidence against him. If the Magistrate refuses to summon a witness so offered, he shall record his reasons for such refusal.

Power to summon supplementary witnesses.

The Magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person, and, in every case, a copy of the examination of such witnesses shall be given him free of cost.

When accused person is to be committed.

358. In such inquiries, when the person accused is to be committed for trial, and has given in the list of witnesses mentioned in section two hundred the Magistrate shall summon the witnesses to appear before the Court before which the accused person is to be tried.

Refusal to summon unnecessary witness, unless deposit made.

359. If the Magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material.

If

If the Magistrate be not so satisfied, he shall not be bound to summon the witness; but, in doubtful cases, he may summon such witness, if such a sum is deposited with the Magistrate as he thinks necessary to defray the expense of obtaining the attendance of the witness.

Recognizances of prosecutors and witnesses.

360. Prosecutors, and witnesses for the prosecution and defence, whose attendance is necessary before the Court of Session or High Court, shall execute before the Magistrate recognizances, in the form (F) given in the second schedule to this Act, or to the like effect, to be in attendance when called upon at the Court of Session or High Court, to prosecute or to give evidence, as the case may be.

Detention in custody in case of refusal to attend or to execute recognizance.

If any prosecutor or witness refuses to attend before the Court of Session or High Court, or to execute the recognizance above directed, the Magistrate may detain him in custody until he executes such recognizance, or until the time when his attendance at the Court of Session or High Court is required, when the Magistrate shall send him under custody to the Court of Session or High Court.

Summons Cases.

In summons cases.

361. In summons cases, the Magistrate may summon any person who appears to him likely to give material evidence on behalf of the complainant or the accused.

Ordinarily it shall be the duty of the complainant and accused, in non-cognizable cases, to produce their own witnesses.

In such cases, it shall be in the discretion of the Magistrate to summon any witnesses named by the complainant or the accused; and he may require, in such cases, a deposit of the expenses of a witness before summoning him.

Warrant Cases.

In cases tried upon warrant.

362. In warrant cases, the Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts

and

and circumstances of the case, and who are likely to give evidence for the prosecution, and shall summon such of them to give evidence before him as he thinks necessary.

The Magistrate shall also, subject to the provisions of section three hundred and fifty-nine, summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for that purpose, at his discretion, adjourn the trial from time to time. If the Magistrate refuse to summon a witness named by the accused person, he shall record his reasons for such refusal, and the accused person shall be entitled to appeal to the Court of Session against such refusal.

SESSIONS TRIALS.

Right of accused as to examination and summoning of witness.

363. The accused person shall be allowed to examine any witness not previously named by him, if such witness be in attendance; but he shall not, except as provided in section four hundred and forty-eight, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial.

Procedure in case of witness refusing to answer.

364. If a witness before a Court of Session refuses to answer any question which is put to him, and does not offer any just excuse for such refusal, the Court may commit him to custody for such reasonable time as it deems proper, unless in the meantime he consents to be examined and to answer.

In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of section four hundred and thirty-five or four hundred and thirty-six.

OF SECURING DOCUMENTARY EVIDENCE.

Procedure for obtaining production of document required as evidence.

365. Whenever an officer in charge of a Police-station, or any Court, considers that the production of any document is necessary or desirable for the purposes of any investigation or judicial proceeding, such officer or Court may issue a summons to the party in whose keeping

keeping such document is believed to be, requiring him to attend and produce such document at the time and place stated in the summons.

366. If there appears reason to believe that the person to whom the summons is addressed will not produce it as directed in the summons, such officer or Court may issue a search-warrant for the document in the first instance.

When warrant for search for documents may issue.

367. Any Court may, if it thinks fit, impound any document produced before it, or may, at the conclusion of the proceedings, order such document to be returned to the person who produced it.

Power to impound document produced.

CHAPTER XXVII.

Of Search-Warrants.

368. When a Magistrate considers that the production of anything is essential to the conduct of an inquiry into an offence known or suspected to have been committed, or to the discovery of the offender,

Search-warrant when grantable.

or when he considers that such inquiry or discovery will be furthered by the search or inspection of any house or place,

he may grant his search-warrant; and the officer charged with the execution of such warrant may search or inspect any house or place within the jurisdiction of the Magistrate of the District.

The Magistrate issuing such warrant may, if he see fit, specify in his warrant the house or place, or part thereof, to which only the search or inspection shall extend; and the officer charged with the execution of such warrant shall then search or inspect only the house, place or part so specified.

369. The last preceding section shall not authorize any Magistrate, other than the Magistrate of the District, to grant a search-warrant for a letter in the custody of the Postal Department;

Procedure as to letter in custody of Postal Department.

but if any such letter is wanted for the purpose of any criminal proceeding, any Magistrate or District Superintendent of Police may give notice to the Postal

Postal authorities to cause search to be made for and to detain any such letter, pending the orders of the Magistrate of the District; and the Magistrate of the District may, if he thinks fit, direct the Postal authorities to deliver up any such letter.

Direction of search-warrant.

370. A search-warrant shall ordinarily be directed to a Police officer; but the Magistrate issuing the warrant may, after recording his reasons, if immediate search is necessary and no Police officer be immediately available, direct it to any other person.

Warrant to Police officer may be executed by his subordinate.

371. A search-warrant directed or endorsed to a Police officer may, if he is not able to proceed in person, be executed by any other Police officer.

Endorsement.

In such case the name of such Police officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Execution of search-warrant out of district in which issued.

372. When it is necessary for a search-warrant to be executed out of the district in which it was issued, any Magistrate within whose local jurisdiction the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the Police officer charged with the execution of the warrant to execute the same within the said jurisdiction.

Or the search-warrant may be directed to the Magistrate within whose local jurisdiction the search is to be made; and he shall thereupon endorse his name on such warrant, and enforce its execution in the same manner as if it had been issued by himself.

Search-warrants may, in emergency, be executed without endorsement.

373. Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose district the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the Police officer charged with the execution of the warrant may execute the same, in any place beyond the district in which it was issued, without the endorsement of the Magistrate in whose local jurisdiction that place is situate.

If

If the thing for which search is made is found in such place, it shall, when the place where the thing is found is nearer to the Magistrate having jurisdiction in such place than to the Magistrate who issued the warrant, be immediately taken before the Magistrate in whose local jurisdiction it is found; and unless there be good cause to the contrary, such Magistrate shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be taken to Magistrate within whose jurisdiction it is found.

Order thereon.

If the thing be not found after such search, the Police officer making the same shall, in addition to the return made to the Magistrate who issued the warrant, report the fact to the Magistrate in whose local jurisdiction the search was made.

374. If the thing searched for be found within a Presidency town, it shall be taken to the Commissioner of Police or to a Police Magistrate; and such Commissioner or Magistrate shall act in the manner prescribed in section three hundred and seventy-three.

Procedure in such cases within Presidency town.

375. Whenever it appears necessary, a Magistrate may, by his warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made.

Magistrate may issue search-warrant to be executed in jurisdiction of another Magistrate.

When a Magistrate issues a warrant under this section, he shall inform the Magistrate within whose local jurisdiction the house or place to be searched is situate, or if the house or place be situate within a Presidency town, he shall inform the Commissioner of Police, of the issue of such warrant.

376. A Magistrate issuing a search-warrant to be executed in any house or place out of the jurisdiction of the Magistrate of the District, or out of his own Division, may direct the warrant to any Magistrate within whose local jurisdiction such house or place is situate, and may send the same by post.

Magistrate may send search-warrant by post to Magistrate of another District or Division of District.

On receipt of such warrant by the Magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

Endorsement and execution by such Magistrate.

If

Direction of warrant to be executed in Presidency town.

If the warrant is to be executed within a Presidency town, it shall be addressed to the Commissioner of Police or to a Police Magistrate.

In such case, any property found on search made may be dealt with as provided in sections three hundred and seventy-three and three hundred and seventy-four.

Search of house suspected to contain stolen property or forged documents.

377. If the Magistrate of the District, or a Magistrate of a Division of a District, or a Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any house or place is used as a place for the deposit or sale of stolen property,

or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin or for forging,

or that any forged documents, or counterfeit stamps, or false seals, or counterfeit coin, or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or place,

he may by his warrant authorize any Police officer above the rank of a constable to enter, with such assistance as may be required, and by force if necessary, any such house or place, and to search all such parts of the same as are specified in the warrant, and to seize and take possession of any property, documents, stamps, seals, or coins, therein found, which he reasonably suspects to be stolen, forged, false, or counterfeit, and also of any such intruments and materials as aforesaid.

Magistrate may attend personally.

378. The Magistrate by whom a search-warrant is issued may attend personally for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence.

The Magistrate may also direct a search to be made in his presence, of any house or place for the search of which he is competent to issue a search-warrant.

Search by officer in charge of Police-station.

379. Whenever an officer in charge of a Police-station, or a Police officer making an investigation, considers that the production of anything is necessary to

to the conduct of an investigation into any offence which he is authorized to investigate, he may search or cause search to be made for the same, in any house or place within the limits of the station of which he is in charge or to which he is attached.

In such case, the officer in charge of the Police-station or Police officer making investigation shall, if practicable, conduct the search in person.

If he is unable to conduct the search in person, and there is no other person competent to make the search present at the time, the officer in charge of the Police-station, or Police officer making investigation, may require any officer subordinate to him to make the search; and he shall deliver to such subordinate officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and such subordinate officer may thereupon search for such property in such house or place.

The provisions of sections three hundred and eighty-two to three hundred and eighty-five (both inclusive), relating to search-warrants, shall be applicable to a search made under this section by or under the direction of an officer in charge of a Police-station, or by a Police officer making an investigation.

When officer of Police-station may require another to issue search-warrant.

380. An officer in charge of a Police-station may require an officer in charge of another Police-station, whether subordinate to the same Magistrate as himself or to a Magistrate of another district, to cause a search to be made in any house or place, in any case in which the former officer might cause such search to be made within the limits of his own station.

Such officer, on being so required, shall proceed according to the provisions of section three hundred and seventy-nine, and shall forward the thing found, if any, to the officer at whose request the search was made.

Inspection of weights and measures.

381. An officer in charge of a Police-station may, without a warrant, enter any shop or premises within the limits of such station, for the purpose of inspecting or searching for any weights or measures, or instruments

instruments for weighing, used or kept therein, whenever he has reason to believe that there are, in such shop or premises, any weights, measures or instruments for weighing which are false.

If such officer finds, in such shop or premises, any weights, measures or instruments that are false, he may seize the same, and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Persons in charge of closed house to allow search.

382. Whenever any house or place liable to search or inspection under this chapter is closed, any person residing in, or being in charge of, such house or place shall, on demand of the officer or other person executing the warrant, allow such officer or other person free ingress thereto, and afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

383. A Police officer or other person, authorized by a warrant to search any house or place, may break open any outer or inner door or window of such house or place, in order to execute the warrant, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking of zanána.

384. If the place ordered to be searched is an apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the officer or other person charged with the execution of the warrant shall give notice to such woman in such apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw.

After giving such notice and allowing a reasonable time for such woman to withdraw, and affording her every reasonable facility for withdrawing, such officer or person may enter such apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Search to be made in presence of witnesses.

385. Before conducting a search under this chapter, the officer conducting it shall call upon two or more respectable inhabitants of the place in which the

BENGAL SECRETARIAT LIBRARY.

the house or place to be searched is situate, to attend and witness the search.

The search shall be made in their presence, but they shall not be required to attend the Court of the Magistrate as witnesses, unless specially summoned by him.

The occupant of the house or place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search.

Occupant of place searched may attend.

386. Whenever it is necessary to cause a woman to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Mode of searching women.

387. Whenever a person is arrested by the Police under a warrant which does not provide for the taking of bail,

Search of arrested persons.

or under a warrant which provides for the taking of bail, but the arrested person cannot furnish bail,

or is arrested without warrant and is not admitted to bail,

it shall be the duty of the arresting officer to search such person and to place in safe custody all articles, other than necessary articles of apparel, found on such person.

A list of such articles shall be forwarded with the daily diary or with the final report in the case.

PART IX.

PROCEDURE INCIDENTAL TO INQUIRY AND TRIAL.

CHAPTER XXVIII.

BAIL.

388. When any person appears or is brought before a Magistrate, accused of any bailable offence, he shall be admitted to bail.

When bail shall be taken.

389. When

Bail not to be taken for certain offences.

389. When any person accused of any non-bailable offence appears or is brought before a Magistrate, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail may be taken.

If the evidence given in support of the accusation is, in the opinion of the Magistrate, not such as to raise a strong presumption of the guilt of the accused person,

or if such evidence is adduced on behalf of the accused person as, in the opinion of the Magistrate, weakens the presumption of his guilt, but there appears to the Magistrate, in either of such cases, to be sufficient ground for further inquiry into his guilt,

the accused person shall be admitted to bail pending such inquiry.

Power to direct admission to bail.

390. The Court of Session may in any case, whether there be an appeal on conviction or not, direct that an accused person shall be admitted to bail, or that the bail required by a Magistrate be reduced.

Recognizance of accused and sureties.

391. When a Magistrate admits to bail any person accused or suspected of any offence, a recognizance, in such sum of money as the Magistrate thinks sufficient, shall be entered into by the person so accused, and one or more sureties, conditioned that such person shall attend at the time and place mentioned in the recognizance, and shall continue to attend until otherwise directed by the Court, and, if required, shall appear when called upon at the Court of Session or other Court, as the case may be, to answer the charge.

Insufficient bail.

392. If, through mistake or fraud, insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to give sufficient bail or to find sufficient sureties, and, in default, may be committed to prison.

Bail may be taken at any time before conviction.

393. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

394. After

394. After the recognizances have been duly entered into, the Magistrate, in case the accused person has appeared voluntarily or is in the custody of some officer, shall thereupon release him; and in case he is in some prison or other place of confinement, shall issue a warrant of release to the jailor or other person having him in his custody, and such jailor or other person shall thereupon release him. Discharge on bail.

395. Any one or more of the sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements. Discharge of sureties.

On such an application being made, the Magistrate shall issue his warrant of arrest, directing that such person be brought before him.

On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and, in default, may order him to be committed to prison.

396. Whenever, by reason of default of appearance of the person executing the personal recognizance, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty, by issuing a warrant for the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District. Such warrant may be executed within the jurisdiction of the Magistrate of the District, and it shall authorize the distress and sale of any moveable property belonging to the accused person, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such moveable property is situated. Procedure to compel payment of penalty by accused.

397. Whenever, by reason of default of appearance by the person bailed, the Magistrate is of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties Procedure to compel payment of penalty by sureties.

sureties to pay the same, or to show cause why it should not be paid.

If such penalty be not paid and if no sufficient cause for its non-payment be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties, by issuing a warrant for the attachment and sale of any moveable property belonging to him or them which may be found within the jurisdiction of the Magistrate of the District. Such warrant may be executed within the jurisdiction of the Magistrate of the District; and it shall authorize the distress and sale of any moveable property belonging to the surety or sureties, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such moveable property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the civil jail, during a period not exceeding six months.

In what cases the powers given by sections 396 and 397 may be exercised.

398. The powers given by sections three hundred and ninety-six and three hundred and ninety-seven may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court, according to the conditions of such recognizance or bail:

Remission of part of penalty.

Provided that the Magistrate or Court may, at his or its discretion, remit any portion of the penalty mentioned in the recognizance of the accused person, or of the surety or sureties, and enforce payment in part only:

Revision of orders.

All orders passed by any Magistrate, other than the Magistrate of the District, under this section or section three hundred and ninety-six or three hundred and ninety-seven, shall be appealable to the Magistrate of the District, or, if not so appealed, may be revised by him.

A High

A High Court or a Court of Session may direct any Magistrate to levy the amount due on a forfeited bail-bond executed in respect of attendance before such High Court or Court of Session.

High Court or Court of Session may direct Magistrate to levy sum forfeited.

399. When any person is required by any officer or Criminal Court to give bail, except in cases coming under chapter XXXVIII, such officer or Court may permit such person to deposit a sum of money or Government promissory notes to such amount as it may fix in lieu of such bail.

Deposit may be made instead of bail.

CHAPTER XXIX.

Formation of Lists of Jurors and Assessors and their Attendance.

400. The Sessions Judge and the Collector of the District, or such other officer as the Local Government from time to time appoints in this behalf, shall prepare and make out in alphabetical order a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the Local Government thinks fit to direct, who are, in the judgment of the Sessions Judge and Collector or other officer as aforesaid, qualified from their education and character to serve as jurors or as assessors, respectively.

List of jurors and assessors.

The list shall contain the name, place of abode, and quality or business of every such person; and if the person is a European or an American, the list shall mention the race to which he belongs.

401. Copies of such list shall be stuck up in the office of the Collector or other officer as aforesaid, and in the Court-houses of the Magistrate of the District and of the chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside.

Publication of list.

To every such copy shall be subjoined a notice, stating that objections to the list will be heard and determined

determined by the Sessions Judge and Collector or other officer as aforesaid, at the Sessions Court-house, and at a time to be mentioned in the notice.

Revision of list.

402. For the hearing of such objections, the Sessions Judge shall sit with the Collector or other officer as aforesaid, and shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not suitable in their judgment to serve as a juror or as an assessor, or who may avail himself of the exemption from service given by section four hundred and six, and insert the name of any person omitted from the list whom they deem qualified for such service.

In the event of a difference of opinion between the Collector or other officer as aforesaid and the Sessions Judge, the name of the proposed juror or assessor shall be omitted from the list.

A copy of the revised list shall be signed by the Sessions Judge and Collector or other officer as aforesaid, and sent to the Court of Session.

Any order of the Sessions Judge and Collector or other officer as aforesaid, in preparing and revising the list, shall be final.

Annual revision of list.

403. The list so prepared and revised shall be again revised once in every year.

The list so revised shall be deemed a new list, and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors and assessors.

404. All male persons between the ages of twenty-one and sixty, resident within the local limits of the jurisdiction of the Court of Session, except those hereinafter mentioned, shall be deemed capable of serving as jurors and assessors, and shall be liable to be summoned accordingly.

Disqualifications.

405. The following persons are incapable of serving as jurors or as assessors, namely:—

Persons who hold any office in or under the said Court:

Persons

Persons executing any duties of Police or entrusted with any Police functions:

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Sessions Judge and Collector, renders them unfit to serve on the jury:

Persons afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving:

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

406. 'The following persons are exempt from the liability to serve as jurors or as assessors, namely:— Exemptions.

All officers in civil employ superior in rank to a Magistrate of the District:

Judges and other Judicial Officers:

Commissioners and Collectors of Revenue or Customs:

All persons engaged in the Preventive Service in the Customs Department:

All persons engaged in the collection of the revenue, whom the Collector thinks fit to exempt on the ground of official duty:

Chaplains and others employed in religious offices:

All persons in the Military service, except when, by any law in force for the time being, such persons are specially made liable to serve:

Surgeons and others who openly and constantly practise in the profession of physic:

Persons employed in the Post Office and Electric Telegraph Departments:

Persons actually officiating as priests in their respective religions:

All persons exempted by the Local Government; and persons exempted by Government from personal appearance in Court, under the provisions of the Code of Civil Procedure, section twenty-two.

The

Person exempted is not bound to avail himself of his right of exemption.

The exemption from service given by this section is a right of which each person exempted may avail himself or not.

Nothing contained in this section shall be construed to disqualify any such person, if he is willing to serve as a juror or as an assessor.

The Sessions Judge may issue a summons to any exempted person, to serve as an assessor or juror on the trial of a European British subject.

Court to summon jurors.

407. The Court of Session shall ordinarily, three days at the least before the time fixed for the holding of the sessions, send a precept to a Magistrate directing him to summon as many persons named in the said revised list, as seem to the Court to be needed for trials by jury and trials with the aid of assessors at the said sessions, the number to be summoned not being less than double the number required for any case about to be tried at such sessions.

The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them; the names so drawn shall be specified in the precept to the Magistrate.

Summoning and empannelling jurors under section 234.

408. When a trial is to be held in which the accused person, or one of the accused persons, is entitled to be tried by a jury constituted under the provisions of section two hundred and thirty-four, the Court of Session shall, three days at least before the day fixed for holding such trial, cause to be summoned, in the manner hereinafter prescribed, as many European and American jurors as are required for the trial, if there be so many on the jury-list of the district in which the trial is to be held.

The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been already summoned for jury trials at that session.

From

From the whole number of persons returned, the jurors who are to constitute the jury shall be taken by lot in the manner prescribed in section two hundred and forty, until a jury containing the proper number of Europeans or Americans, or a number approaching thereto as nearly as possible, has been obtained.

If a jury containing the requisite number of Europeans and Americans is not obtained, the accused person may elect to be tried by the Judge with the aid of assessors; otherwise he shall be tried by the jury obtained by the means aforesaid.

Form and service of summons.

409. Every summons to a juror or assessor shall be in writing, and shall require his attendance as a juror or assessor at a time and place to be therein specified.

The summons or a copy thereof shall be served on every juror or assessor personally.

If the juror or assessor summoned be absent from his usual place of abode, the summons may be left for him there, with some adult male member of his family residing with him.

Power to summon another set of jurors or assessors.

410. The Court of Session may direct jurors or assessors to be summoned at other periods than the period specified in section four hundred and seven, when the number of trials before the Court renders the attendance of one set of jurors or assessors for a whole session oppressive, or whenever it is found to be necessary.

Service of summons on officer of Government.

411. If any person summoned to serve as a juror or assessor be in the service of Government or of a Railway Company, the summons shall be sent to him through the head officer of the office in which he is employed; and the Court may excuse the attendance of such person if it appear, on the representation of such head officer, that the person summoned cannot serve as a juror or assessor without inconvenience to the public service.

Court may excuse attendance of juror or assessor.

412. The Court of Session may excuse any juror or assessor from attendance for reasonable cause.

413. At

List of jurors or assessors attending.

413. At each session, the Court shall cause to be made a list of the names of those who serve as jurors or assessors at such session.

Such list shall be kept with the revised list of the jurors and assessors prepared under section four hundred and two.

A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this section.

Penalty for non-attendance of juror or assessor.

414. Any person summoned to attend as a juror or as an assessor, who, without lawful excuse, fails to attend as required by the summons, or who, having attended, departs without having obtained the permission of the Court, or fails to attend after an adjournment of the Court after being ordered to attend, shall be liable, by order of the Court of Session, to a fine not exceeding one hundred rupees.

Such fine shall be levied by the Magistrate of the District, by attachment and sale of any moveable property belonging to such juror or assessor within the jurisdiction of the Sessions Court making the order.

In default of recovery of the fine by such attachment and sale, such juror or assessor may be imprisoned in the civil jail for the space of fifteen days, if the fine be not sooner paid.

CHAPTER XXX.

MISCELLANEOUS PROVISIONS.

Procedure by Police upon seizure of stolen property.

415. The seizure, by any Police officer, of property alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a Magistrate, who shall thereupon make such order respecting the custody and production of such property as he thinks proper.

Sale of perishable property.

If such property is of a perishable nature, or if it appears to the Magistrate that its sale would be for the benefit of the owner, such Magistrate may at any time direct it to be sold, and shall hold the proceeds of such sale

sale in trust for the owner, subject to the provisions contained in sections four hundred and sixteen and four hundred and seventeen.

416. When the owner of any such property is unknown, the Magistrate may detain it, or the proceeds thereof, if sold, and, in case of such detention, shall issue a proclamation, specifying the articles of which such property consists or consisted, and requiring any person who may have a claim thereto or to the proceeds thereof, to appear before him and establish his claim within six months from the date of such proclamation.

Procedure where owner of property seized unknown.

417. If no person within such period establishes his claim to such property or proceeds, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District, or a Magistrate of a Division of a District, or, if duly authorized, a Magistrate of the first class; or, if it has been already sold by the Magistrate, the proceeds thereof shall be at the disposal of the Government.

Procedure if no claimant appears within six months.

An appeal shall be allowed to the Court to which appeals against sentences would lie, in the case of every order passed under this section.

418. When the trial in any Criminal Court is concluded, the Court may make such order as appears right for the disposal of any property produced before it, regarding which any offence appears to have been committed.

Order for disposal of property regarding which offence committed.

419. Any Court of appeal, reference or revision may direct any such order passed by a Court subordinate thereto to be stayed, and may modify, alter or annul it.

Stay of such order.

420. The order passed by any Court under section four hundred and eighteen or four hundred and nineteen, may be in the form of a reference of the property to the Magistrate of the District, or to a Magistrate of a Division of a District, who shall in such

Order may take form of reference to Magistrate of District.

such cases deal with it as if the property had been seized by the Police and the seizure had been reported to him in the manner hereinbefore mentioned.

Expenses of complainants and witnesses.

421. Subject to any rules that may be passed by the Local Government, with the previous sanction of the Governor General of India in Council, the Criminal Courts may order payment, on the part of Government, of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Interpreter to be bound to interpret truthfully.

422. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, he shall be bound to state the true interpretation of such evidence or statement.

CHAPTER XXXI.

LUNATICS.

Procedure in case of accused being lunatic.

423. When any person charged with an offence before a Magistrate competent to try the case appears to such Magistrate to be of unsound mind and incapable of making a defence, such Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District, or some other medical officer, and thereupon shall examine such Civil Surgeon or other medical officer as a witness, and shall reduce the examination into writing.

If such Magistrate is of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

When accused appears to have been insane.

424. When, from the evidence given before a Magistrate, there appears to be sufficient ground for believing that the accused person committed an act which, if he had been of sound mind, would have been an offence triable exclusively by the Court of Session, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was

was doing what was wrong or contrary to law, such accused person shall, if he appears to be sane at the time of inquiry, be sent for trial by the Magistrate before the Court of Session.

If such accused person is a European British subject, the Magistrate shall follow the procedure prescribed in chapter VII.

If an accused person appears to be insane at the time of inquiry, the Magistrate shall act in the manner provided in the last preceding section.

Procedure in case of person committed before a Court of Session being lunatic.

425. If any person committed for trial before a Court of Session shall, at his trial, appear to the Court to be of unsound mind and incapable of making his defence, the Court shall, in the first instance, try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence; and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

426. Whenever an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence of which such person is accused be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required.

Custody of lunatic.

If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the Local Government to which the case shall be reported shall direct.

Resumption of inquiry or trial.

427. Whenever an inquiry or trial is postponed under section four hundred and twenty-three or section four hundred and twenty-five, the Magistrate or Court of Session, as the case may be, may at any time resume the inquiry or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court; or, if the accused person has been released on security, may require his appearance.

The

The surety of such person shall be bound, at any time, to produce him to any officer whom the Magistrate or Court of Session appoints to inspect him; and the certificate of such officer shall have the same effect as the certificate of an Inspector General of Prisons or the Visitors of Lunatic Asylums, granted under section four hundred and thirty-two.

Procedure on accused appearing before Magistrate or Court of Session.

428. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it appears to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the inquiry shall proceed, or the accused person shall be put on his trial, as the case may require.

If it appears that the accused person is still of unsound mind, and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of section four hundred and twenty-three or section four hundred and twenty-five.

Finding in case of acquittal on ground of being lunatic.

429. Whenever any person is acquitted upon the ground that, at the time at which he is charged with having committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act charged, or that he was doing what was wrong or contrary to law, the finding shall state specially whether such person committed the act or not.

Person so acquitted to be kept in safe custody.

430. Whenever such finding states that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session seems fit, and shall report the case for the order of the Local Government.

The Local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

431. When

431. When any person is confined under the provisions of section four hundred and twenty-six or section four hundred and thirty, the Inspector General of Prisons, if such person is confined in a jail, or the Visitors of the Lunatic Asylums or any two of them, if he is confined in a Lunatic Asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector General or by two of such Visitors as aforesaid; and such Inspector General or Visitors shall make a special report to the Local Government as to the state of mind of such person.

Lunatic prisoners to be visited by Inspector General.

432. If such person is confined under section four hundred and twenty-six, and such Inspector General or Visitors as aforesaid shall certify that, in his or their opinion, such person is capable of making his defence, he shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session appoints, and such Magistrate or Court shall deal with such person under the provisions of section four hundred and twenty-eight; and the certificate of such Inspector General or Visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic prisoner is reported capable of making his defence.

433. If such person is confined under the provisions of section four hundred and thirty, and such Inspector General or Visitors as aforesaid certify that, in his or their judgment, he may be discharged without danger of his doing injury to himself or to any other person, the Local Government may thereupon either order him to be discharged, or to be detained in custody, or to be transferred to a public Lunatic Asylum, if he has not been already sent to such an Asylum; and may appoint a commission, consisting of a judicial officer not below the grade of a Sessions Judge, and two medical officers, whereof the chief medical officer attached to the Lunatic Asylum shall be one.

Procedure where lunatic confined under section 430 is declared capable of being discharged.

The said commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Local Government, who may order his discharge or detention as to it may seem fit.

434. Whenever

Delivery of lunatic to care of relative.

434. Whenever any relative or friend of any person detained under the provisions of section four hundred and thirty is desirous that he shall be delivered over to his care and custody, the Local Government, upon the application of such relative or friend, and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that such person may be delivered to such relative or friend.

Whenever such person is so delivered over, it shall be upon condition that he shall be subject to the inspection of such officer as the Local Government appoints, and at such times as such Government directs.

The provisions of sections four hundred and thirty-one and four hundred and thirty-three shall apply to persons detained under the provisions of this section; and the certificate of the inspecting officer appointed under this section shall be dealt with as a certificate of the Inspector General of Prisons, or the Visitors of Lunatic Asylums, under the said sections.

CHAPTER XXXII.

CONTEMPTS OF COURT.

Procedure in certain cases of contempt.

435. When any such offence as is described in sections one hundred and seventy-five, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, or two hundred and twenty-eight of the Indian Penal Code is committed in the view or presence of any Civil, Criminal, or Revenue Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody; and, at any time before the rising of the Court on the same day, may take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred rupees, and, in default of payment, by imprisonment in the civil jail for a period

period not exceeding one month, unless such fine be sooner paid.

In every such case, the Court shall record the facts constituting the offence, with any statement the offender may make, as well as the finding and sentence.

If the offence is under section two hundred and twenty-eight of the Indian Penal Code, the record must show the nature and stage of the judicial proceeding in which such public servant was sitting, and the nature of the interruption or insult offered.

Procedure where Court considers that accused should be imprisoned, or fined more than 200 rupees.

436. If the Court in any case considers that a person accused of any such offence should be imprisoned otherwise than in default of payment of fine, or that a fine exceeding two hundred rupees should be imposed upon him, such Court, after recording the facts constituting the offence, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Magistrate of the first class who is a Justice of the Peace and a European British subject; and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or, if sufficient bail be not tendered, shall cause such person to be forwarded under custody to such Magistrate.

If the case be forwarded to a Magistrate, he shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate; and such Magistrate may adjudge the offender to punishment, as provided in the section of the Indian Penal Code under which he is charged.

If, in the case of a European British subject, the Magistrate to whom he is forwarded considers the offence to require a more severe punishment than he is competent to award under chapter VII of this Act, he may commit the offender to the Sessions Court.

In no case tried under this section shall any Magistrate adjudge imprisonment, or a fine exceeding two hundred rupees, for any contempt committed in his own presence against his own Court.

437. When

Discharge of offender on submission or apology.

437. When any Court has adjudged an offender to punishment, or forwarded him to a Magistrate for trial, for refusing or omitting to do anything which he was lawfully required to do, or for any intentional insult or interruption, the Court may discharge the offender, or remit the punishment, on his submission to the order or requisition of such Court, or on apology being made to its satisfaction.

Procedure when offender is a European British subject.

438. When any such offence as is described in chapter X of the Indian Penal Code (except sections one hundred and seventy-five, one hundred and seventy-eight, one hundred and seventy-nine, one hundred and eighty, and two hundred and twenty-eight) is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate of the first class who is a Justice of the Peace and a European British subject; and such Magistrate may deal with the offender, on conviction, in the same manner as is provided in that behalf in section seventy-four.

If such Magistrate considers the offence to require a more severe punishment than he is competent to award under the said section, he may commit the offender to the Sessions Court.

PART X.

CHARGE, JUDGMENT AND SENTENCE.

CHAPTER XXXIII.

OF THE CHARGE.

FORM OF CHARGES.

Charge to state offence.

439. The charge shall state the offence with which the accused person is charged.

Specific name of offence, sufficient statement.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

If

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the prisoner notice of the matter with which he is charged.

How stated where offence has no specific name.

The Act and section or sections of the Act against which the offence is said to have been committed must be referred to in the charge.

The fact that the charge is made shall be equivalent to a statement that every legal condition, necessary by law to constitute the offence charged, was fulfilled in the particular case.

What implied in charges.

The charge may be written either in English or in the language of the district. If not written in a language understood by the prisoner, it must be read to him in a language which he understands.

Language of charge.

If the accused person has been previously convicted of any offence, and if it is intended to prove such previous conviction for the purpose of affecting the punishment which is to be awarded, the fact of the previous conviction must be stated in the charge. If it is omitted, it may be added at any time before sentence is passed, but not afterwards.

Previous conviction to be set out in charge.

Illustrations.

(*a*.) A is charged with the murder of B.

This is equivalent to a statement that A's act fell within the definition of murder given in sections 299 and 300 of the Indian Penal Code; that it did not fall within any of the general exceptions of the Penal Code; and that it did not fall within any of the five exceptions to section 300, or that, if it did fall within exception I, one or other of the three provisos to that exception applied to it.

(*b*.) A is charged, under section 326 of the Indian Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting: this is equivalent to a statement that the case was not provided for by section 335 of the Indian Penal Code, and that the general exceptions did not apply to it.

(*c*.) A is accused of murder, cheating, theft, extortion, adultery or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or adultery, or criminal intimidation, or that he used a false property-mark, without reference

ence to the definitions of those crimes contained in the Indian Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d.*) A is charged, under section 184 of the Indian Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

Particulars as to time, place and person.

440. The charge shall contain such particulars as to the time and place of the alleged offence and the person against whom it was committed, as are reasonably sufficient to give notice to the accused person of the matter with which he is charged.

When manner of committing offence must be stated.

441. When the nature of the case is such that the particulars mentioned in sections four hundred and thirty-nine and four hundred and forty do not give sufficient notice to the accused person of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose.

Illustrations.

(*a.*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b.*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c.*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d.*) A is accused of obstructing B, a public servant, in discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e.*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f.*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Forms in schedule.

442. The charge may be in the form given in the third schedule to this Act or to the like effect.

Effect of errors.

443. No error, either in the way in which the offence is stated, or in the particulars required to be stated

stated in section four hundred and forty-one, and no omission to state the offence, or to state those particulars, shall be regarded at any stage of the case as material, unless the person accused was in fact misled by such error or omission.

Illustrations.

(*a.*) A is charged, under section 242 of the Indian Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit;" the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The Court may infer from this that the omission to set out the manner of the cheating is not material.

(*c.*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The Court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d.*) A is charged with the murder of Khodá Baksh on the 21st January. In fact, the murdered person's name was Haidar Baksh, and the date of the murder was the 20th January. A was never charged with any murder but one, and had heard the inquiry before the Magistrate, which referred exclusively to the case of Haidar Baksh. The Court may infer from these facts that A was not misled, and that the error in the charge was immaterial.

(*e.*) A was charged with murdering Haidar Baksh on the 20th January, and Khodá Baksh (who tried to arrest him for that murder) on the 21st January. When charged for the murder of Haidar Baksh, he was tried for the murder of Khodá Baksh. The witnesses present in his defence were witnesses in the case of Haidar Baksh. The Court may infer from this that A was misled, and that the error was material.

Prisoner may apply for amendment.

444. Any accused person may apply to the Court by which he is tried for an amendment of the charge made against him; and in considering whether any error in a charge did in fact mislead the accused person

son, the Court shall take into account the fact that he did or did not make such an application.

Court may amend a charge.

445. Any Court may, either upon the application of the accused person, or upon its own motion, amend or alter any charge at any stage of the proceedings before judgment is signed, or, in cases of trials before a Court of Session, before the verdict of the jury is delivered or the opinion of the assessors is expressed. Such amendment shall be read and explained to the accused person.

How Court of Session may deal with charge.

446. If a prisoner is committed to the Court of Session, either without any charge at all, or upon a charge which the Court, upon reference to the proceedings before the committing Magistrate, considers improper, the Court of Session may draw up a charge for any offence which it considers to be proved by the evidence taken before the committing Magistrate. A copy of such charge shall be given to the accused person.

When trial may proceed immediately after amendment.

447. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making such amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When new trial may be directed or trial suspended.

448. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and, after hearing his defence, the Court may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

Prosecutor and accused person may recall witnesses.

449. In all cases of amendment or alteration of a charge, the prosecutor and accused person shall be allowed to recall and examine any witness who may have been examined.

450. If

450. If the offence stated in the new charge be one for which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained; unless sanction has been already obtained for a prosecution on the same facts as those on which the new charge was based.

Previous sanction to be obtained if offence in new charge require it.

451. If any Appellate Court, or the High Court in the exercise of its powers of revision, is of opinion that any person convicted of an offence was in fact misled in his defence by an error in the charge, it shall direct a new trial to be had upon a charge amended in whatever manner it thinks proper.

Effect of material error.

If such Court is of opinion that the facts of the case are such that no valid charge could be preferred against the person accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 188 of the Indian Penal Code, upon a charge which omits to state that A knew that he was directed to abstain from a certain act by an order promulgated by a public servant lawfully empowered to promulgate such order. If the Court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge; but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

JOINDER OF CHARGES.

452. There must be a separate charge for every distinct offence of which any person is accused, and every such charge must be tried separately, except in the cases hereinafter excepted.

Separate charges for distinct offences.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

453. When a person is accused of more offences than one of the same kind, committed within one year of each other, he may be charged and tried at the same time for any number of them not exceeding three.

More offences than one of same kind may be charged within a year of each other.

EXPLANATION.—

EXPLANATION.—Offences are said to be of the same kind under this section if they fall within the provisions of section four hundred and fifty-five.

I.—Trial of more than one offence.

454. I.—If in one set of facts, so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with and tried for every such offence at the same time.

II.—One offence falling within two definitions.

II.—If a single act falls within two separate definitions of any law in force for the time being, by which offences are defined or punished, the person who does it may be charged with each of the offences so committed, but he must not receive a more severe punishment than could be awarded, by the Court which tries him, for either.

III.—Acts severally constituting more than one offence, but collectively coming within one definition.

III.—If several facts, of which one or more than one would by itself constitute an offence, form, when combined, an offence under the provisions of any law in force for the time being, by which offences are defined or punished, a person who does them may be charged with every offence which he may have committed, but he must not receive for such offences, collectively, a punishment more severe than that which might have been awarded, by the Court trying him, for any one of such offences, or for the offence formed by their combination.

Illustrations.

To paragraph I.

(*a.*) A rescues B, a person in lawful custody, and causes grievous hurt to C, a constable in whose custody B was. A may be separately charged with, convicted of, and punished for, offences under sections 225 and 333, Indian Penal Code.

(*b.*) A has in his possession several counterfeit seals with the intention of committing several forgeries. A may be separately charged with, convicted of, and punished for, the possession of each seal for a distinct forgery under section 473, Indian Penal Code.

(*c.*) A, with intent to cause injury to B, institutes proceedings against him, knowing there is no just or lawful ground for such proceedings. A also falsely charges B with having committed an offence. A may be separately charged with, convicted of, and punished for, two offences under section 211, Indian Penal Code.

(*d.*) A,

(*d.*) A, with intent to injure B, brings a false charge against him of having committed an offence. On the trial, A gives false evidence against B. A may be separately charged with, convicted of, and punished for, offences under sections 211 and 194 or 195, Indian Penal Code.

(*e.*) A, knowing that B, a female minor, has been kidnapped, wrongfully confines her and detains her as a slave. A may be separately charged with, convicted of, and punished for, offences under sections 368 (read with 367) and 370, Indian Penal Code.

(*f.*) A, with six others, commits the offences of rioting, grievous hurt, and of assaulting a public servant engaged in suppressing the riot. A may be separately charged with, convicted of, and punished for, offences under sections 147, 325 and 152, Indian Penal Code.

(*g.*) A criminally intimidates B, C and D at the same time. A may be separately charged with, convicted of, and punished for, each of the three offences under section 506, Indian Penal Code.

(*h.*) A intentionally causes the death of three persons by upsetting a boat. A may be separately charged with, convicted of, and punished for, three offences under section 302, Indian Penal Code.

To paragraph II.

(*i.*) A commits mischief by cutting down a tree in a Government forest. The tree overhangs the bank of a river and falls into the stream. A commits theft by having severed the tree and by floating it down the river to his village, where he sells it. A may be separately charged with, and convicted of, offences under sections 426 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 379 only.

(*j.*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 352 and 323 of the Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 323 only.

(*k.*) A wrongfully kills a buffalo worth sixty rupees belonging to B, and then takes away the carcase in a manner amounting to theft. A may be separately charged with, and convicted of, offences under sections 429 and 379, Indian Penal Code; but the Court which tries him may not inflict a more severe sentence than if it had convicted him under section 429 only.

(*l.*) Several stolen sacks of corn are made over to A and B, who know they are stolen property. A and B thereupon assist each other to conceal the sacks at the bottom of a grain-pit. A and B

may

may be separately charged with, and convicted of, offences under sections 411 and 414, Indian Penal Code; but the Court which tries them may not inflict a severer sentence than if it had convicted them under one of those sections only.

(*m.*) A uses a forged document in evidence, in order to convict B, a public servant, of an offence under section 167. A may be separately charged with, and convicted of, offences under sections 471 (read with 466) and 196 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under one of those sections only.

To paragraph III.

(*n.*) A commits house-breaking by day with intent to commit adultery, and commits, in the house so entered, adultery with B's wife. A may be separately charged with, and convicted of, offences under sections 454 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

(*o.*) A robs B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 323, 392 and 394 of the Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 392 or 394 only.

(*p.*) A entices B, the wife of C, away, and then commits adultery with her. A may be separately charged with, and convicted of, offences under sections 498 and 497, Indian Penal Code; but the Court which tries him may not inflict a severer sentence than if it had convicted him under section 497 only.

Where it is doubtful what offence has been committed.

455. If a single act or set of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused person may be charged with having committed any such offence; and any number of such charges may be tried at once, or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to either theft, receiving stolen property, criminal breach of trust, or cheating. He may be charged separately with theft, criminal breach of trust, and cheating, or he may be charged with having committed either theft, or criminal breach of trust, or cheating.

When a person is charged with one offence, he can be convicted of another.

456. If, in the case mentioned in the last section, one charge only is brought against an accused person, and it appears in evidence that he committed a different offence, for which he might have been charged under

under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed criminal breach of trust, or receiving stolen goods. He may be convicted of criminal breach of trust, or receiving stolen goods, though he was not charged with it.

When offence proved included in offence charged.

457. When a person is charged with an offence, and part of the charge is not proved, but the part which is proved amounts to a different offence, he may be convicted of the offence which he is proved to have committed, though he was not charged with it.

Illustrations.

(*a.*) A is charged, under section 407, Indian Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 406 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 406.

(*b.*) A is charged with murder. He may be convicted of culpable homicide, or of causing death by negligence.

What persons may be charged jointly.

458. When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together, or separately, as the Court thinks proper, and the provisions hereinbefore contained shall apply to all such charges.

Illustrations.

(*a.*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b.*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery, and A alone with the murder.

(*c.*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft, and B alone with the two other thefts.

459. In

Withdrawal of remaining charges, on conviction on one of several charges.

459. In trials before a Court of Session or High Court, when more charges than one are preferred against the same person, and when a conviction has been had on one or more of them, the Government Pleader or other officer conducting the prosecution may, with the consent of the Court, withdraw, or the Court of its own accord may suspend, the inquiry into the remaining charge or charges.

PREVIOUS ACQUITTALS OR CONVICTIONS.

Person once convicted or acquitted not to be tried for same offence.

460. A person who has once been tried for an offence and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again on the same facts for the same offence, nor for any other offence for which a different charge from the one made against him might have been made under section four hundred and fifty-five, or for which he might have been convicted under section four hundred and fifty-six.

A person convicted or acquitted of any offence may be afterwards tried for any offence for which a separate charge might have been made against him on the former trial under section four hundred and fifty-four, paragraph I.

A person acquitted or convicted of any offence in respect of any act causing consequences which, together with such act, constituted a different offence from that for which such person was acquitted or convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened, or were not known to the Court to have happened, at the time when he was acquitted or convicted.

A person acquitted or convicted of any offence in respect of any facts may, notwithstanding such acquittal or conviction, be subsequently charged with and tried for any other offence which he may have committed in respect of the same facts, if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Illustrations.

Illustrations.

(*a.*) A is tried upon a charge of theft as a servant and acquitted. He cannot afterwards be charged, upon the same facts, either with theft as a servant, with theft simply, or with criminal breach of trust.

(*b.*) A is tried upon a charge of murder and acquitted. There is no charge of robbery; but it appears from the facts that A committed robbery at the time when the murder was committed; he may afterwards be charged with, and tried for, robbery.

(*c.*) A is tried for an assault and convicted. The person afterwards dies. A may be tried again for culpable homicide.

(*d.*) A is tried under section 270 of the Indian Penal Code for malignantly doing an act likely to spread the infection of a disease dangerous to life and is acquitted. The act so done afterwards causes a person permanently to lose his eyesight. A may be charged, under section 325, with voluntarily causing grievous hurt to that person.

(*e.*) A is charged before the Court of Session and convicted of the culpable homicide of B. A may not afterwards be tried for the murder of B on the same facts.

(*f.*) A is charged by a Magistrate of the first class with, and convicted by him of, voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B, on the same facts, unless the case comes within paragraph three.

(*g.*) A is charged by a Magistrate of the second class with, and convicted by him of, theft of property from the person of B. A may be subsequently charged with, and tried for, robbery on the same facts.

(*h.*) A, B and C are charged by a Magistrate of the first class with, and convicted by him of, robbing D. A, B and C may afterwards be charged with, and tried for, dákáití, on the same facts.

CHAPTER XXXIV.

Of the Judgment, Order, and Sentence.

Judgment to specify offence.

461. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the section of the Indian Penal Code or other law under which, he is convicted;

or

Judgment in the alternative.

or, if it be doubtful under which of two sections, or under which of two parts of the same section, such offence falls, the Court shall distinctly express the same, and pass judgment in the alternative, according to section seventy-two of the said Code.

When judgment is to be pronounced.

462. In trials with assessors, when the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court, either immediately, or on some future day, of which due notice shall be given to the parties or their pleaders.

Judgment to be written in English, or language of district.

463. The judgment or final order shall be written by the presiding officer of the Court in English, or the language of the district.

Proviso.

If the language of the Judge be not English, the judgment shall not be written in English, unless the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language.

Judgment what to contain.

464. The judgment or final order shall contain the point or points for determination, the finding thereupon, and the reasons for the finding, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. When a judgment or final order has been so signed, it cannot be altered or reviewed by the Court which gives such judgment or order. It shall specify the offence of which the accused person is convicted, and the punishment to which he is sentenced; or, if it be a finding of acquittal, it shall direct that he be set at liberty.

The judgment or order shall be explained to the accused person, or person affected by it; and a copy shall be given him in his own language as soon as possible.

Judgment to be translated.

The original shall be filed with the record of proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in the district, shall be incorporated in the record of the case.

In

In trials by jury, the Court need not state its reasons for its judgment, but shall record the heads of the charge to the jury.

If the Judge differ from the jury and determine to submit the case to the High Court, he shall record the grounds of his opinion.

Nothing herein contained shall prevent any Court from recalling any order other than a final order.

No error or defect in any judgment shall invalidate the proceedings.

CHAPTER XXXV.

PROSECUTIONS IN CERTAIN CASES.

Prosecutions for offences against the State.

465. A complaint of an offence punishable under chapter VI of the Indian Penal Code, except section one hundred and twenty-seven, or punishable under section two hundred and ninety-four A of the said Code, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council or the Local Government, or some officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution of Judges and public servants.

466. A complaint of an offence committed by a public servant in his capacity as such public servant, of which any Judge or any public servant not removeable from his office without the sanction of the Government is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the Local Government, or of some officer empowered by the Local Government, or of some Court or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the Local Government shall not think fit to limit or reserve.

No such Judge or public servant shall be prosecuted for any act purporting to be done by him in the

the discharge of his duty, unless with the sanction of Government.

Sanction when to be given.

The sanction must be given before the commencement of the proceedings.

Power of Local Government.

The Local Government may limit the person by whom, and the manner in which, the prosecution is to be conducted, and may specify the Court before which the trial is to be held.

Prosecution for contempts of the lawful authority of public servants.

467. A complaint of any offence described in chapter X of the Indian Penal Code, not falling within section four hundred and thirty-five or four hundred and thirty-six of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the public servant concerned, or of his official superior.

The prohibition contained in this section shall not apply to the offences described in sections one hundred and eighty-nine and one hundred and ninety of the Indian Penal Code.

Prosecution for certain offences against public justice.

468. A complaint of an offence against public justice, described in section one hundred and ninety-three, one hundred and ninety-four, one hundred and ninety-five, one hundred and ninety-six, one hundred and ninety-nine, two hundred, two hundred and five, two hundred and six, two hundred and seven, two hundred and eight, two hundred and nine, two hundred and ten, two hundred and eleven, or two hundred and twenty-eight of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Court before or against which the offence was committed, or of some other Court to which such Court is subordinate.

Prosecution for certain offences relating to documents given in evidence.

469. A complaint of an offence relating to documents, described in section four hundred and sixty-three, four hundred and seventy-one, four hundred and seventy-five, or four hundred and seventy-six of the Indian Penal Code, when the document has been given in evidence in any proceedings in any Civil or Criminal Court, shall not be entertained against a party to such proceedings, except with the sanction of the

the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate.

470. The sanction referred to in sections four hundred and sixty-seven, four hundred and sixty-eight, and four hundred and sixty-nine, may be expressed in general terms, and need not name the accused person.

Nature of sanction necessary.

Such sanction may be given at any time, and a sanction under any one of the three last preceding sections shall be deemed sufficient authority for the Court to amend the charge to one of an offence coming within either of the two remaining sections, if the facts disclose such offence.

EXPLANATION.—In cases under this chapter, the report or application of the public servant or Court shall be deemed sufficient complaint.

471. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for inquiring into any charge mentioned in sections four hundred and sixty-seven, four hundred and sixty-eight, and four hundred and sixty-nine, such Court, after making such preliminary inquiry as may be necessary, may either commit the case itself, or may send the case for inquiry to any Magistrate having power to try or commit for trial the accused person for the offence charged.

Procedure in cases mentioned in sections 467, 468 and 469.

Such Magistrate shall thereupon proceed according to law; and the Court may send the accused person in custody, or take sufficient bail for his appearance before such Magistrate; and may bind over any person to appear and give evidence on such trial or inquiry.

The Magistrate receiving the case may, if he is authorized to make transfers of cases, transfer the inquiry to some other competent Magistrate, instead of completing the inquiry himself.

472. A Court of Session may charge a person for any such offence committed before it, or under its own cognizance, if the offence be triable by the Court of Session exclusively, and may commit, or hold to bail and try, such person upon its own charge.

Power of Court of Session as to such offences committed before itself.

In such case, the Court of Session shall have the same power of summoning, and causing the attendance at

at the trial, of any witnesses for the prosecution or for the defence, as is vested in a Magistrate by this Act.

Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Offences in contempt of Court how to be disposed of.

473. Except as provided in sections four hundred and thirty-five, four hundred and thirty-six and four hundred and seventy-two, no Court shall try any person for an offence committed in contempt of its own authority.

Power of Civil Courts to complete investigation and commit to Court of Session.

474. In any case triable by the Court of Session exclusively, any Civil Court before which such offence was committed may, instead of sending the case for inquiry to a Magistrate, complete the inquiry itself, and commit or hold to bail the accused person to take his trial before the Court of Session.

For the purposes of an inquiry under this section, the Civil Court may exercise all the powers of a Magistrate; and its proceedings in such inquiry shall be deemed to have been held by a Magistrate.

If a Civil Court sends a case for inquiry and commitment to a Magistrate, he is bound to receive and dispose of it; but if a Civil Court makes a commitment, it shall complete the inquiry itself.

Procedure of Civil Court in such cases.

475. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinbefore provided, and shall send the same with the order of commitment and the record of the case to the Magistrate of the District, or other Magistrate of the first class; and such Magistrate shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Court may exercise all powers of Magistrate as to binding over persons to give evidence.

476. Whenever any Court of Session or Civil Court commits or holds to bail any person for trial under section four hundred and seventy-two, four hundred and seventy-four, or four hundred and seventy-five, it may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

477. If

477. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, he shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he thinks fit.

Procedure where offence triable only by Session Court is committed before Magistrate not empowered to commit to such Court.

478. A complaint of an offence under section four hundred and ninety-seven of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by any person under whose care she was living at the time when the adultery was committed.

Prosecution for adultery.

479. A complaint of an offence under section four hundred and ninety-eight of the Indian Penal Code shall not be instituted, except by the husband of the woman, or by the person having care of such woman on behalf of her husband.

Prosecution for enticing away a married woman.

PART XI.

PREVENTIVE JURISDICTION OF MAGISTRATES.

CHAPTER XXXVI.

OF THE DISPERSION OF UNLAWFUL ASSEMBLIES.

480. Any Magistrate or officer in charge of a Police-station may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Assembly to disperse on command of Magistrate or Police officer.

481. If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a Police-station may proceed to disperse such assembly by force, and may require the assistance of any person, other than any European or Native Troops of Her Majesty acting as such, for the purpose of dispersing it, and arresting the persons who form part of it.

Use of force to disperse.

482. If

Use of military force.

482. If an unlawful assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, the Magistrate of the highest rank who is present may cause it to be dispersed by military force.

When use of military force is not an offence.

483. No Magistrate shall be held to commit any offence by ordering the dispersion, by military force, of any assembly, the dispersion of which he regards, on reasonable grounds and in good faith, as necessary to the public security.

Duty of officer commanding troops required by Magistrate to disperse assembly.

484. When a Magistrate determines to disperse an assembly by military force, he may require any officer in command of any of Her Majesty's Troops, whether European or Native, to disperse such assembly by such force, and it shall be the duty of every such officer to obey every such requisition in such manner as in his discretion appears proper; but in doing so he shall use as little force, and do as little injury to person and property, as is consistent with dispersing the assembly and arresting and detaining such persons as he may be directed by the Magistrate to arrest and detain, or as it may be necessary to arrest and detain for the purpose of dispersing the assembly.

What acts done in obeying requisition not an offence.

485. No officer obeying any such requisition shall be held to have committed any offence by any act done by him in good faith in order to comply with it.

Acts of inferior officers and soldiers, done in obedience to order, not an offence.

486. No inferior officer or private soldier shall be held to have committed any offence by any act done for the dispersion of any such assembly in obedience to any order which he was bound by the Mutiny Act or by the Indian Articles of War to obey.

Duty of Queen's officers to suppress assembly.

487. When the public security is manifestly endangered by an unlawful assembly, and when no Magistrate can be communicated with, any Commissioned Officer of Her Majesty's European or Native Forces may disperse any such assembly by military force; and in doing so, he shall have the same protection as a Magistrate, and all officers and soldiers acting under his orders shall have the protection mentioned

tioned in section four hundred and eighty-six; but as soon as such Commissioned Officer can communicate with any Magistrate, it is his duty to do so.

488. No prosecution against any Magistrate, officer or soldier, for any act done under the provisions contained in sections four hundred and eighty-one, four hundred and eighty-two, four hundred and eighty-four and four hundred and eighty-seven, shall be instituted in any Criminal Court, except with the sanction of the Government of India, or the Government of Madras or Bombay.

Sanction required to prosecutions for acts done under sections 481, 482, 484 and 487.

CHAPTER XXXVII.

Of Security for keeping the Peace.

489. Whenever a person accused of rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, is convicted of such offence before a Court of Session, or Magistrate of a Division of a District, or Magistrate of the first class,

Personal recognizance to keep the peace in cases of conviction

and the Court or Magistrate by which or by whom such person is convicted, or the Court or Magistrate by which or by whom the final sentence or order in the case is passed, is of opinion that it is just and necessary to require such person to give a personal recognizance for keeping the peace,

such Court or Magistrate may, in addition to any other order passed in the case, direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by a Magistrate, or three years if the sentence or final order be passed by a Court of Session, with a provision that, if the same be not given, the person required to enter into the engagement shall be kept in simple imprisonment for any

any time not exceeding one year if the order be passed by a Magistrate, or three years if the order be passed by the High Court or by a Court of Session, unless within such period such person execute such formal engagement as aforesaid.

If the accused person be sentenced to imprisonment, the period for which he may be required to execute a recognizance, and the imprisonment in default of executing such recognizance, shall commence when he is released on the expiration of his sentence.

Where convicting officer is not in charge of Division of District, nor a Magistrate of first class.

When any accused person is convicted of any offence specified in this section by a Magistrate neither in charge of a Division of a District nor of the first class, such Magistrate, if he considers it just and necessary to require a personal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, the Magistrate of the Division of the District, or to a Magistrate of the first class to whom such Magistrate is subordinate; and the Magistrate to whom the case is so reported shall deal with the case as if the conviction had been before himself.

In any case where the order is not made at the time of signing, or by the Court which signs, the judgment, the convict must be produced before the Magistrate who adds the order to enter into a personal recognizance to the original sentence.

Security to keep the peace.

490. Whenever it appears necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, the Court or Magistrate empowered to require a personal recognizance may require security in addition thereto, and may fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in simple imprisonment for any time not exceeding one year if the order be passed by the Magistrate of the District, Magistrate of a Division of a District, or by a First Class Magistrate, or three years if the order be passed by the High Court or by a Court of Session.

491. Whenever

491. Whenever a Magistrate of a Division of a District, or a Magistrate of the first class, receives information that any person is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, he may summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace, with or without sureties, as such Magistrate thinks fit.

Summons to any person to show cause why he should not give bond to keep peace.

EXPLANATION I.—A summons calling on a person to show cause why he should not be bound over to keep the peace, may be issued on any report or other information which appears credible and which the Magistrate believes; but the Magistrate cannot bind over a person until he has adjudicated on evidence before him.

EXPLANATION II.—A Magistrate may recall a summons issued under this section if he thinks proper.

492. Such summons shall set forth the substance of the report or information on which it is issued, the amount of the bond, and the term for which it is to be in force, and, if security is called for, the number of sureties required, and the amount in which they are to be bound respectively, and the time and place at which the person summoned is required to attend.

Form of summons.

EXPLANATION.—When the parties are present in Court no summons is necessary, but the person to whom a summons would have been issued must have an opportunity to show cause why he should not be bound.

493. The bond shall be in the form (E) given in the second schedule, or to the like effect; and its penalty shall be fixed with a due regard to the circumstances of the case and the means of the party.

Penalty of bond.

The amount in which the sureties shall be bound shall not exceed the penalty named in the bond.

494. If the person summoned does not attend at the time and place named in the summons on the day appointed, such Magistrate, if satisfied that the summons has been duly served, may issue a warrant for his arrest:

Warrant of arrest.

Provided

Provided that, whenever it appears to such Magistrate, upon the report of a Police officer or upon other credible information (the substance of which report or information shall be recorded), that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, the Magistrate may at any time issue a warrant for his arrest.

Magistrate may dispense with personal attendance of person informed against.

495. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person informed against under section four hundred and ninety-one, and may permit him to appear and enter into the required security, or show cause against such requisition, by an agent duly authorized to act in his behalf.

Discharge of person informed against.

496. If on the appearance of such person informed against, or of his agent if he is permitted to appear by agent, the Magistrate is not satisfied that there is occasion to bind such person to keep the peace, the Magistrate shall direct his discharge.

Non-compliance with order to give bond.

497. If the Magistrate is satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if such person fails to comply with the order, the Magistrate may order him to be kept in simple imprisonment until he furnish the same.

Time for which person may be bound to keep peace.

498. The period for which the Magistrate may bind a person to keep the peace, with or without security, shall not exceed one year.

Limit of imprisonment under section 497.

When a person is imprisoned under section four hundred and ninety-seven, he shall not be detained by authority of the Magistrate beyond the term of one year, and shall be released whenever, within that term, he complies with the order.

Extension of time for which person may be bound.

499. Whenever it appears to the Magistrate that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may

may refer the case for the orders of the Court of Session.

Such Court, after examining the proceedings of the Magistrate, and making such further inquiry as it thinks necessary, may, if it see cause, authorize the Magistrate to extend the term for a further period not exceeding one year.

If such person fails to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate, under the orders of the Court of Session, directs, he may be kept in simple imprisonment for such further period, or until, within that period, he gives such bond.

EXPLANATION.—When the subject of dispute, or ground for apprehension, is the same as that on which the first order was passed, the Magistrate must proceed under this section if the first bond is still in force, and not under section four hundred and ninety-one.

Discharge of recognizances.

500. The Magistrate of the District may, if he see sufficient cause, discharge any recognizance and surety for keeping the peace taken by him, or by any Magistrate subordinate to him, or by his predecessor, under the preceding sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

501. A surety for the peaceable conduct of another person may at any time apply to the Magistrate to be relieved from his engagement as surety.

On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound may appear or be brought before him.

On the appearance of the person to such warrant, or on his voluntary surrender, the Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon such person to give fresh security, and, in default thereof, shall order him to be kept in simple imprisonment.

502. Whenever

Recovery of penalty from principal

502. Whenever it is proved before the Magistrate that any recognizance or other bond taken under this chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by such recognizance or bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause be not shown and the penalty be not paid, the Magistrate shall proceed to recover the same by issuing a warrant for the attachment and sale of any of the moveable property belonging to the person bound by such recognizance or bond.

Such warrant may be executed within the jurisdiction of the Magistrate of the District in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to the person bound, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, such person shall be liable to imprisonment by order of the Magistrate in the civil jail for a period not exceeding six months.

The penalty shall not be enforced until the person bound has had an opportunity of showing cause, and until the breach of the conditions has been proved.

The commission, or attempt to commit or abetment, of any offence whatever, and wherever it may be committed, is a breach of the bond.

Proceedings under this chapter may be taken, either in the district in which the breach of the peace is apprehended, or where an offence has been committed in breach of the bond, or in any district where the person it is desired to bind may be.

Recovery of penalty from surety

503. Whenever it is proved before the Magistrate that any bond with a surety has been forfeited, the Magistrate may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid.

If

If no sufficient cause is shown, and such penalty is not paid, the Magistrate may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XXXVIII.

Of Security for Good Behaviour.

When Magistrate may require security for good behaviour for six months.

504. Whenever it appears to the Magistrate of the District, or to a Magistrate of the first class, that any person is lurking within his jurisdiction, or that there is within his jurisdiction a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, such Magistrate may require such security for such person's good behaviour for a period not exceeding six months as to him may appear good and sufficient.

Binding of sentenced person.

If in any case under this or the two following sections, the person to be bound is under sentence for an offence, he must be brought up on or after the expiration of his sentence for the purpose of being bound.

When Sessions Judge or unauthorized Magistrate thinks a person should be bound.

If a Sessions Judge, or Magistrate of the second or third class, considers, from evidence taken in any proceedings before him, that any person should be required to enter into a bond to be of good behaviour, he may send such person in custody to a competent Magistrate.

Powers of Magistrate of Division of District, being a Magistrate of the second class, to inquire.

A Magistrate in charge of a Division of a District, exercising the powers of a Magistrate of the second class, may make any inquiry necessary under this chapter, and may submit his proceedings to the Magistrate of the District, who may pass such order on them, either directing the person whose character was inquired into to furnish security or not, as he thinks fit.

When Magistrate may require security for good behaviour for one year.

505. Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by repute a robber, housebreaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or

or of notoriously bad livelihood, or is a dangerous character,

such Magistrate may require similar security for the good behaviour of such person for a period not exceeding one year.

Procedure where security required for more than one year.

506. Whenever it appears to such Magistrate, from the evidence as to general character adduced before him, that any person is by habit a robber, housebreaker, or thief,

or a receiver of stolen property, knowing the same to have been stolen,

or of a character so desperate and dangerous as to render his release without security, at the expiration of the limited period of one year, hazardous to the community,

he shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number, character, and class of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour; and if such person does not comply with the order, the Magistrate shall issue a warrant directing his detention pending the orders of the Court of Session.

Proceedings to be laid before Court of Session.

507. If a person required to furnish security under the provisions of the last preceding section does not furnish the same, or offers sureties whom the Magistrate sees fit to reject, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session.

Such Court, after examining such proceedings and requiring any further information or evidence which it thinks necessary, may pass orders on the case, either confirming, modifying or annulling the orders of such Magistrate, as it thinks proper.

Court of Session may require security for period not exceeding three years.

508. If the Court of Session does not think it safe to direct the immediate discharge of such person, it shall fix a period for his detention, not exceeding three years, in the event of his not giving the security required from him.

509. Whenever

509. Whenever security for good behaviour is required by the Court of Session or by a Magistrate, the amount, the security, the number and description of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order.

Contents of order for security.

The security-bond shall be in the form (G) given in the second schedule, or to the like effect.

510. In the event of any person required to give security under the provisions of this chapter failing to furnish the security so required, he shall be committed to prison until he furnish the same:

Imprisonment in default of security.

Provided that no such person shall be kept in prison for a longer period than that for which the security has been required from him.

Term of imprisonment.

Imprisonment under this section may be rigorous or simple, as the Court or Magistrate in each case directs.

511. The Magistrate of the District may, at any time, exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order, or that of his predecessor in office, or by the order of any officer subordinate to him, provided he is of opinion that such person can be released without hazard to the community.

Release of prisoners under requisition of security.

512. Whenever the Magistrate of the District is of opinion that any person confined under requisition of security for good behaviour, by order of a Court of Session, can be safely released without such security, such Magistrate shall make an immediate report of the case for the orders of such Court of Session.

Report in case of prisoner under requisition of security by order of Court of Session.

513. A surety for the good behaviour of a person may at any time apply to a competent Magistrate to be relieved from his engagement as such surety.

Discharge of surety.

On such application being made, such Magistrate shall issue his summons or warrant in order that such person may appear or be brought before him.

On

On the appearance of such person pursuant to such summons or warrant, or on his voluntary surrender, such Magistrate shall direct the engagement of the surety to be cancelled, and shall call upon the person so appearing or surrendering to give fresh security, and, in default thereof, shall commit him to custody.

Recovery of penalty from sureties.

514. Whenever a competent Magistrate is of opinion that, by reason of an offence proved to have been committed by a person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, such Magistrate shall give notice to the surety to pay the penalty, or to show cause why it should not be paid.

If such penalty be not paid and no sufficient cause for non-payment be shown, such Magistrate shall proceed to recover the penalty from such surety by issuing a warrant for the attachment and sale of any moveable property belonging to him. Such warrant may be executed within the jurisdiction of the Magistrate of the District in which it is issued; and it shall authorize the distress and sale of any moveable property belonging to such surety, without the jurisdiction of the said Magistrate, when endorsed by the Magistrate of the District in which such property is situated.

If such penalty be not paid and cannot be recovered by such attachment and sale, the surety shall be liable to imprisonment by order of such Magistrate in the civil jail for a period not exceeding six months.

Issue of summons and warrant of arrest.

515. The provisions of sections four hundred and ninety-two and four hundred and ninety-four, relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, when such party is not in custody, shall apply to proceedings taken under this chapter against persons required to give security for their good behaviour.

Place where proceedings may be held.

Proceedings may be taken under this chapter, against persons amenable to its provisions, in any district where they may be.

Any

Any evidence taken under chapter XXXVII or this chapter, shall be taken as in cases usually heard by a Magistrate upon summons.

Manner of taking evidence under chapter XXXVII or this chapter.

Any previous conviction against the person to be bound may be proved on proceedings held under this chapter.

Previous convictions may be proved.

516. A Magistrate may refuse to accept any surety offered under this chapter, on the ground that such surety is an unfit person.

Sureties may be rejected on the ground of character.

517. The provisions of this chapter shall not apply to European British subjects.

Chapter not applicable to European British subjects.

CHAPTER XXXIX.

Local Nuisances.

518. A Magistrate of the District, or a Magistrate of a Division of a District, or any Magistrate specially empowered, may, by a written order, direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate considers that such direction is likely to prevent, or tends to prevent,

Magistrate may issue orders to prevent obstructions, danger to human life, or riots.

obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed,

or danger to human life, health or safety,

or a riot or an affray.

Explanation I.—This section is intended to provide for cases where a speedy remedy is desirable, and where the delay which would be occasioned by a resort to the procedure contained in section five hundred and twenty-one and the next following sections would, in the opinion of the Magistrate, occasion a greater evil than that suffered by the person upon whom the order was made, or would defeat the intention of this chapter.

Explanation II.—

EXPLANATION II.—An order may, in cases of emergency or in cases where the circumstances do not admit of the serving of notice, be passed *ex parte*, and may in all cases be made upon such information as satisfies the Magistrate.

EXPLANATION III.—An order may be directed to a particular individual, or to the public generally when frequenting or visiting a particular place.

EXPLANATION IV.—Any Magistrate may recall or alter any order made under this section by himself or by his predecessor in the same office.

Magistrate may prohibit repetition or continuance of public nuisances.

519. A Magistrate of the District, or a Magistrate of a Division of a District, or any Magistrate specially empowered, may enjoin any person not to repeat or continue a public nuisance, as defined in section two hundred and sixty-eight of the Indian Penal Code or under any local or special law.

Orders not judicial proceedings.

520. Orders made under sections five hundred and eighteen and five hundred and nineteen are not judicial proceedings.

Magistrate may order removal of nuisances.

521. Whenever a Magistrate of the District, or a Magistrate of a Division of a District, or, when empowered by the Local Government in this behalf, a Magistrate of the first class, considers that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place,

or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place,

or that the construction of any building, or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented,

or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary,

or that any tank or well adjacent to, any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public—

such

such Magistrate may issue an order to the person causing such obstruction or nuisance, or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank or well, as aforesaid, calling on him, within a time to be fixed in the order,

to remove such obstruction or nuisance;

or to suppress or remove such trade or occupation,

or to stop the construction of such building,

or to remove it,

or to alter the disposal of such substance,

or to fence such tank or well, as the case may be,

or to appear before himself or some other Magistrate of the first or second class within the time mentioned in the order, and show cause why such order should not be enforced.

Order to be a judicial proceeding.

The issue of an order under this section shall be a judicial proceeding, whether or not evidence is taken therein.

Order to be in the alternative.

Such order may be issued on a report or other information which the Magistrate believes, and shall direct the person to whom it is addressed, either to obey it, or to show cause why it should not be obeyed. The order shall not be made absolute, except as is hereinafter provided, until opportunity has been given to the person affected to show cause.

EXPLANATION.—A "public place" includes property belonging to the State, camping grounds, and grounds left unoccupied for sanitary and recreative purposes.

Service or notification of order.

522. The order mentioned in section five hundred and twenty-one shall, if practicable, be served personally on the person to whom it is issued.

But if personal service is found to be impracticable, such order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

523. The

Person ordered shall obey, or may claim a jury.

523. The person to whom such order is issued shall be bound, within the time specified in the order, to obey the same, or to appear before the Magistrate before whom he was required by the order to appear and show cause as aforesaid; or he may apply to such Magistrate for an order for a jury to be appointed to try whether such order is reasonable and proper.

Constitution of jury.

On receiving such application, such Magistrate shall forthwith appoint a jury consisting of an uneven number of persons not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such Magistrate, and the other members by the applicant.

Suspension of order.

The execution of the order shall be suspended pending such inquiry, and the Magistrate who issued the order or before whom the applicant appears shall be guided by the decision of the jury, which shall be according to the opinion of the majority.

When order may be made absolute.

If the applicant by neglect or otherwise prevents, or if he does not claim, the appointment of a jury, or if from any cause the jury so appointed do not decide and report within a reasonable time, the Magistrate may pass such order as he thinks proper, which order shall be carried out in the manner hereinafter provided.

Report of jury and order thereon.

The time within which the report is to be made shall be fixed by the Magistrate in the order for the appointment of the jury, and may from time to time be extended by him. When the jury have made their report, the order of the Magistrate must be founded thereon, except in cases falling under section five hundred and twenty-eight.

Attendance of jury.

524. Such Magistrate may summon so many jurors as may be necessary, and such persons shall be bound to attend and make their inquiry and report.

Any juror failing to attend, or neglecting his duty as a juror, shall be liable to be dealt with under section one hundred and seventy-four of the Indian Penal Code.

525. If

525. If the person to whom the order mentioned in section five hundred and twenty-one is issued appears to show cause against the same, as hereinafter provided, the Magistrate shall take evidence in the matter, but if he does not appear, or does not obey the order,

Procedure in case of disobedience or neglect by person ordered.

or apply for a jury within the time specified in such order,

he shall be liable to the penalty prescribed in that behalf in section one hundred and eighty-eight of the Indian Penal Code;

and the Magistrate who issued such order may proceed to carry it into execution at the expense of such person, and may realize such expenses, either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of such moveable property of such person within or without his jurisdiction. If such property is without his jurisdiction, the order shall authorize its attachment and sale when endorsed by the Magistrate in whose jurisdiction the goods are attached.

No suit shall lie in respect of anything necessarily or reasonably done in carrying out the provisions of this section.

526. If, in a case referred to a jury, the jury find that the order of the Magistrate is reasonable and proper, as originally made, or subject to a modification which the Magistrate accepts, the Magistrate who issued the order, or before whom cause was shown, shall give notice of such finding to the person to whom the order was issued, and shall add to such notice an order to obey the aforesaid order, within a time to be fixed in the notice, and an intimation that, in case of disobedience, such person will be liable to the penalty provided by section one hundred and eighty-eight of the Indian Penal Code.

Procedure where jury finds Magistrate's order to be reasonable.

If such latter order is not obeyed, the Magistrate may proceed as in section five hundred and twenty-five.

527 If

Procedure where person ordered satisfies Magistrate that order is not reasonable.

527. If the person to whom the order of the Magistrate, under section four hundred and twenty-one, is issued, appears and shows cause against it so as to satisfy the Magistrate who issued it that it is not reasonable and proper, no further proceedings shall be taken in the case.

Injunction pending inquiry by jury.

528. If the Magistrate who issued the order considers that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, he may issue such an injunction to the person to whom the order under section five hundred and twenty-one was issued, as is required to obviate or prevent such danger or injury, whether a jury is to be, or has been, appointed or not.

In default of such person forthwith taking all necessary measures ordered to be taken by such injunction, the Magistrate may himself use, or cause to be used, such means as may be necessary to obviate such danger or to prevent such injury.

No suit shall lie in respect of anything necessarily or reasonably done for that purpose.

Saving of certain statutory provisions.

529. Nothing in this chapter shall interfere with the provisions of section forty-eight of Act No. XXIV of 1859 (*for the better regulation of the Police within the territories subject to the Presidency of Fort St. George*), or of section thirty-four of Act No. V of 1861 (*for the regulation of Police*), or of section sixteen of Act No. VIII of 1867 (*for the regulation of the District Police in the Presidency of Bombay*) of the Governor of Bombay in Council.

CHAPTER XL.

POSSESSION.

Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.

530. Whenever the Magistrate of the District, or a Magistrate of a Division of a District, or Magistrate of the first class, is satisfied that a dispute likely to induce a breach of the peace exists concerning any land or the boundaries of any land, or concerning any houses, water, fisheries, crops or other produce of land within the limits of his jurisdiction,

such

BENGAL SECRETARIAT LIBRARY.

such Magistrate shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person or by agent, within a time to be fixed by such Magistrate, and to give in a written statement of their respective claims as respects the fact of actual possession of the subject of dispute.

Party in possession to be continued until ousted by due course of law.

Such Magistrate shall, without reference to the merits of the claims of any party to a right of possession, proceed to inquire and decide which party is in possession of the subject of dispute.

After satisfying himself upon that point, he shall issue an order declaring the party or parties to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

EXPLANATION.—Such Magistrate may satisfy himself of the existence of a dispute likely to induce a breach of the peace from a report or other information; but the question of possession must be decided on evidence taken before him.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

531. If such Magistrate decides that neither of the parties is in possession, or is unable to satisfy himself as to which person is in possession, of the subject of dispute, he may attach it, until a competent Civil Court shall have determined the rights of the parties, or who ought to be in possession.

Disputes concerning right of use of land or water.

532. If a dispute arise concerning the right of use of any land or water, or any right of way, such Magistrate, within whose jurisdiction the subject of dispute lies, may inquire into the matter; and if it appears to him that the subject of dispute is open to the use of the public, or of any person or of any class of persons, such Magistrate may order that possession thereof shall not be taken or retained by any one to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the person claiming such possession shall obtain the decision of a competent Civil Court, adjudging him to be entitled to such exclusive possession:

Provided

Provided that such Magistrate shall not pass any such order, if the matter be such that the right of use is capable of being exercised at all times of the year, unless such right has been ordinarily exercised within three months from the date of the institution of the inquiry; or, in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Local inquiry to determine boundary dispute.

533. Whenever a local inquiry is necessary for the purposes of this chapter, any Magistrate of the first class may depute any Magistrate subordinate to him to make the inquiry, and may furnish him with such instructions, consistent with the law for the time being in force, as may seem necessary for his guidance, and may declare by whom the whole or any part of the necessary expenses of the inquiry shall be paid.

Power to restore possession of immoveable property.

534. Whenever, in any Criminal Court, a person is convicted of an offence attended with criminal force, and it appears to such Court that, by such criminal force, any person has been dispossessed of any immoveable property, the Court may order such person to be restored to possession.

No such order shall prejudice any right over such immoveable property which any person may be able to show in a civil suit.

Saving of powers of Collectors and Revenue Courts.

535. Nothing in this chapter shall affect the powers of a Collector, or a person exercising the powers of a Collector, or of a Revenue Court.

CHAPTER XLI.

OF THE MAINTENANCE OF WIVES AND FAMILIES.

Order for maintenance of wives and children.

536. If any person, having sufficient means, neglects or refuses to maintain his wife, or legitimate or illegitimate child unable to maintain himself, the Magistrate of the District, or a Magistrate of a Division of a District, or a Magistrate of the first class, may, upon due proof thereof by evidence, order such person to make a monthly allowance for the maintenance of his wife or such child, at

at such monthly rate, not exceeding fifty rupees in the whole, as to such Magistrate seems reasonable.

Such allowance shall be payable from the date of the order.

If such person wilfully neglects to comply with this order, such Magistrate may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; and may order such person to be imprisoned, with or without hard labour, for any term not exceeding one month, for each month's allowance remaining unpaid: Enforcement of order.

Provided that, if such person offers to maintain his wife on condition of her living with him, and his wife refuses to live with him, such Magistrate may consider any grounds of refusal stated by such wife; and may make the order allowed by this section notwithstanding such offer, if he is satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. Proviso.

No wife shall be entitled to receive an allowance from her husband under this section, if she is living in adultery, or if, without any sufficient reason, she refuses to live with her husband, or if they are living separately by consent.

537. On the application of any person receiving or ordered to pay a monthly allowance under the provisions of section five hundred and thirty-six, and on proof of a change in the circumstances of such person, his wife, or child, the Magistrate may make such alteration in the allowance ordered as he deems fit, provided the total sum of rupees fifty a month be not exceeded. Alteration in allowance.

538. A copy of the order of maintenance shall be given to the person for whose maintenance it is made, or to the guardian of such person; and shall be enforceable by any Magistrate in any place where the person to whom the order is addressed may be, on the Magistrate being satisfied as to the identity of the parties and the non-payment of the sum claimed. Enforcement of order.

PART XII.

PART XII.

MISCELLANEOUS PROVISIONS.

CHAPTER XLII.

MISCELLANEOUS.

Procedure in miscellaneous criminal cases and proceedings.

539. The procedure prescribed by this Act shall be followed, so far as it can be, in all miscellaneous criminal cases and proceedings which are instituted in any Court.

Saving of jurisdiction of Presidency Police Magistrates.

540. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Magistrates or Commissioners of Police, or the Police in the Presidency towns, except so far as this Act expressly provides for the same.

Saving of jurisdiction and procedure of Landholders, Heads of Villages, Village Police Officers, Cantonment Magistrates.

541. Nothing in this Act shall be held to alter or affect—

(*a*) the jurisdiction or procedure of landholders specially empowered according to law in the Presidency of Bombay,

(*b*) the jurisdiction or procedure of the heads of villages in the Presidency of Fort Saint George,

(*c*) the jurisdiction or procedure of village Police officers in the Presidency of Bombay,

(*d*) the jurisdiction or procedure of any officer duly authorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in military bázárs at cantonments and stations occupied by the troops of those Presidencies respectively.

SCHEDULE I.

ENACTMENTS REPEALED.

PART I.—STATUTE.

Year and chapter.	Title.	Extent of repeal.
53 Geo. iii, cap. 155 ...	An Act for continuing in the East India Company, for a further term, the possession of the British territories in India, together with certain exclusive privileges; for establishing further Regulations for the government of the said territories, and the better administration of justice within the same; and for regulating the trade to and from the places within the limits of the said Company's Charter.	Section one hundred and fine.

PART II.—ACTS.

Number and year.	Subject or Title.	Extent of repeal.
V of 1841	An Act for the greater uniformity of the process upon trials for State offences, and the amendment of such process in certain cases.	The whole.
XV of 1843	An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.	Sections three, four, five and six.
XV of 1845	An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.	So much as has not been repealed.
XXIX of 1845 ...	An Act to empower the Government of Bombay to appoint Joint Zillah Judges or Joint Session Judges.	Ditto.
VII of 1853	An Act to extend the jurisdiction of Magistrates, under the 53rd Geo. iii, cap. 155, section 105, in cases of assaults, forcible entries, and other injuries accompanied with force, not being felonies.	The whole Act.

SCHEDULE I.

ENACTMENTS REPEALED.

PART II.—ACTS.—(*concluded.*)

Number and year.	Subject or Title.	Extent of repeal.
X of 1854	An Act for regulating the powers of Assistants to Magistrates, and of Deputy Magistrates appointed under Act XV of 1843.	So much as has not been repealed.
XX of 1856	An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs and Bazars in the Presidency of Fort William in Bengal.	Section fifty-eight.
XXV of 1861 ...	An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.	So much as has not been repealed.
XVII of 1862 ...	An Act to repeal certain Regulations and Acts relating to Criminal Law and Procedure.	Ditto.
VI of 1864 ..	An Act to authorize the punishment of whipping in certain cases.	Sections eight, eleven and twelve.
XXVIII of 1867 ...	An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.	The whole Act.
XXXVI of 1867 ...	An Act to correct an error in Act No. XVII of 1862.	Ditto.
VIII of 1869 ...	An Act further to amend the Code of Criminal Procedure.	Ditto.
XXVII of 1870 ...	To amend the Indian Penal Code.	Sections sixteen and seventeen, and the two schedules.
XIX of 1871 ...	An Act to provide for the appointment of Sessions Judges in Bengal and the North-Western Provinces.	Sections one, two, three, four, five and six.
Bombay Act VII of 1867	An Act for the regulation of the District Police in the Presidency of Bombay.	Section forty.

150	Hiring, engaging, or employing persons to take part in an unlawful assembly.	May arrest without warrant.	According to the offence committed by the person hired, engaged, or employed.	Ditto ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly.	Ditto.
151	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.	Ditto ...	Summons...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
152	Assaulting or obstructing public servant when suppressing riot, &c.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
153	Wantonly giving provocation with intent to cause riot, if rioting be committed.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.
	If not committed	Ditto ...	Summons...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
154	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Magistrate of the first or second class.
155	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it.	Ditto ...	Ditto ...	Ditto ...	Fine	Ditto.
156	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it.	Ditto ...	Ditto ..	Ditto ...	Ditto	Ditto.

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY—*(concluded)*.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
157	Harbouring persons hired for an unlawful assembly.	May arrest without warrant.	Summons...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the first or second class.
158	Being hired to take part in an unlawful assembly or riot.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	Or to go armed	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
160	Committing affray	Shall not arrest without warrant.	Summons...	Ditto ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Any Magistrate.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.

162	Taking a gratification in order by corrupt or illegal means to influence a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
163	Taking a gratification for the exercise of personal influence with a public servant.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the first class.
164	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
165	Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the first or second class.
166	Public servant disobeying a direction of the law with intent to cause injury to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Ditto.
167	Public servant framing an incorrect document with intent to cause injury.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
168	Public servant unlawfully engaging in trade	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the first class.
169	Public servant unlawfully buying or bidding for property.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 2 years, or fine, or both, and confiscation of property, if purchased.	Ditto.

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS—*(concluded)*.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
170	Personating a public servant ...	May arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
171	Wearing garb or carrying token used by public servant with fraudulent intent.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172	Absconding to avoid service of summons or other proceeding from a public servant.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If summons or notice require attendance in person, &c., in a Court of justice.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
173	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the first or second class.

	If summons, &c., require attendance in person, &c., in a Court of justice.	Ditto ...	Ditto ..	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
174	Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
	If the order require personal attendance, &c., in a Court of justice.	Ditto ...	Ditto ...	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
175	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of this Code, or if not committed in a Court, a Magistrate of the first or second class.
	If the document is required to be produced in or delivered to a Court of justice.	Ditto ...	Ditto ...	Ditto ..	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
176	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Magistrate of the first or second class.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If the notice or information required respects the commission of an offence, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
177	Knowingly furnishing false information to a public servant.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the information required respects the commission of an offence, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
178	Refusing oath when duly required to take oath by a public servant.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions of chapter XXXII of this Code, or if not committed in a Court, a Magistrate of the first or second class.

179	Being legally bound to state truth, and refusing to answer questions.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
180	Refusing to sign a statement made to a public servant when legally required to do so.	Ditto ..	Ditto ...	Ditto ...	Simple imprisonment for 3 months, or fine of 500 rupees, or both.	Ditto.
181	Knowingly stating to a public servant on oath as true that which is false.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
182	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person.	Ditto ..	Summons ...	Ditto ..	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
183	Resistance to the taking of property by the lawful authority of a public servant.	Ditto ...	Ditto ..	Ditto ..	Ditto	Ditto.
184	Obstructing sale of property offered for sale by authority of a public servant.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Ditto.
185	Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of 200 rupees, or both.	Ditto.
186	Obstructing public servant in discharge of his public functions.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Ditto.
187	Omission to assist public servant when bound by law to give such assistance.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS—*(concluded)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Shall not arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 6 months, or fine of 500 rupees, or both.	Magistrate of the first or second class.
188	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction or annoyance or injury to persons lawfully employed.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.
	If such disobedience causes danger to human life, health, or safety, &c.	Ditto ...	Ditto ...	Ditto .	Imprisonment for 6 months, or fine of 1,000 rupees, or both.	Ditto.
189	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
190	Threatening any person to induce him to refrain from making a legal application for protection from injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

193	Giving or fabricating false evidence in a judicial proceeding.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate, first class.
	Giving or fabricating false evidence in any other case.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
194	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
	If innocent person be thereby convicted and executed.	Ditto ...	Ditto ...	Ditto ...	Death, or as above ...	Ditto.
195	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years.	Ditto ...	Ditto ...	Ditto ...	The same as for the offence ...	Ditto.
196	Using, in a judicial proceeding, evidence known to be false or fabricated.	Ditto ...	Ditto ...	According as the offence of giving such evidence is bailable or not.	The same as for giving or fabricating false evidence.	Court of Session or Magistrate, first class.
197	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence.	Ditto ...	Ditto ...	Bailable ...	The same as for giving false evidence	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarly issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
198	Using as a true certificate one known to be false in a material point.	Shall not arrest without warrant.	Warrant ...	Bailable ...	The same as for giving false evidence.	Court of Session or Magistrate, first class.
199	False statement made in any declaration which is by law received as evidence.	Ditto ...	Ditto	Ditto ...	Ditto	Ditto.
200	Using as true any such declaration known to be false.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
201	Causing disappearance of evidence of an offence committed, or giving false information touching it to screen the offender, if a capital offence.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
	If punishable with less than 10 years' imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate of the first class, or by the Court by which the offence is triable.

202	Intentional omission to give information of an offence by a person legally bound to inform.	Ditto ...	Summons...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the first or second class.
203	Giving false information respecting an offence committed.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
204	Secreting or destroying any document to prevent its production as evidence.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the first class.
205	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.
206	Fraudulent removal or concealment, &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 2 years ,or fine, or both.	Magistrate of the first or second class.
207	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
208	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the first class.
209	False claim in a Court of justice.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 2 years and fine.	Ditto.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
210	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first class.
211	False charge of offence made with intent to injure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If offence charged be capital, or punishable with transportation for life, or imprisonment for 7 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
212	Harbouring an offender if the offence be capital.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Court of Session or Magistrate, first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If punishable with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By the Magistrate of the first class, or by the Court by which the offence is triable.

213	Taking gift, &c., to screen an offender from punishment, if the offence be capital.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ..	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate of the first class, or by the Court by which the offence is triable.
214	Gift made to cause restoration of property in consideration of screening offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ..	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate of the first class, or by the Court by which the offence is triable.
215	Taking gift to help to recover moveable property of which a person has been deprived by an offence, without causing apprehension of offender.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(continued)*.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
216	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Court of Session or Magistrate of the first class.
	If punishable with transportation for life, or with imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
	If with imprisonment for 1 year, and not for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment for quarter of the longest term, and of the description, provided for the offence, or fine, or both.	By a Magistrate of the first class, or by the Court by which the offence is triable.
217	Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture.	Shall not arrest without warrant.	Summons...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
218	Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.

219	Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
220	Commitment for trial or confinement by a person having authority, who knows that he is acting contrary to law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
221	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, with or without fine.	Court of Session or Magistrate of the first class.
	If with imprisonment for less than 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, with or without fine.	Magistrate of the first or second class.
222	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of justice, if under sentence of death.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 14 years, with or without fine.	Court of Session.
	If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, with or without fine.	Ditto.
	If under sentence of imprisonment for less than 10 years.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.

CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE—*(concluded)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
223	Escape from confinement negligently suffered by a public servant.	Shall not arrest without warrant.	Summons...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	Magistrate of the first or second class.
224	Resistance or obstruction by a person to his lawful apprehension.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
225	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody.	Ditto ...	Ditto ...	Ditto ...	Ditto ...	Ditto.
	If charged with an offence punishable with transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
	If charged with a capital offence ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine.	Court of Session.
	If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

	If under sentence of death	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
225A.	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for one year, or fine, or both.	Magistrate of the first or second class.
226	Unlawful return from transportation ...	Ditto ...	Ditto ...	Not bailable	Transportation for life, and fine and rigorous imprisonment for 3 years before transportation.	Court of Session.
227	Violation of condition of remission of punishment.	Shall not arrest without warrant.	Summons...	Ditto ...	Punishment of original sentence, or, if part of the punishment has been undergone, the residue.	By the Court by which the original offence was triable.
228	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Ditto ...	Ditto ...	Bailable ...	Simple imprisonment for 6 months, or fine of 1,000 rupees, or both.	Court in which the offence is committed, subject to the provisions contained in Chapter XXXII of this Code.
229	Personation of a juror or assessor ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first class.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
231	Counterfeiting, or performing any part of the process of counterfeiting, coin.	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 7 years and fine.	Court of Session.
232	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
233	Making, buying, or selling instrument for the purpose of counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
234	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.
235	Possession of instrument or material for the purpose of using the same for counterfeiting coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
	If Queen's coin	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
236	Abetting in India the counterfeiting out of British India of coin.	Ditto ...	Ditto ...	Ditto ...	The punishment provided for abetting the counterfeiting of such coin within British India.	Ditto.

237	Import or export of counterfeit coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
238	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
239	Having any counterfeit coin known to be such when it came into possession, and delivering, &c., the same to any person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Court of Session or Magistrate of the first class.
240	The same with respect to the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
241	Knowingly delivering to another any counterfeit coin as genuine which, when first possessed, the deliverer did not know to be counterfeit.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin counterfeited, or both.	Magistrate of the first or second class.
242	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
243	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
244	Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
245	Unlawfully taking from a Mint any coining instrument.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

BENGAL SECRETARIAT LIBRARY

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
246	Fraudulently diminishing the weight or altering the composition of any coin.	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 3 years and fine.	Court of Session or Magistrate of the first class.
247	Fraudulently diminishing the weight or altering the composition of the Queen's coin.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
248	Altering appearance of any coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
249	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
250	Delivery to another of coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
251	Delivery of Queen's coin possessed with the knowledge that it is altered.	Ditto ...	Ditto ...	Di tto ...	Imprisonment of either description for 10 years and fine.	Ditto.
252	Possession of altered coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.

253	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
254	Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of ten times the value of the coin.	Magistrate of the first or second class.
255	Counterfeiting a Government stamp ...	Ditto ...	Ditto ...	Bailable. ...	Imprisonment of either description for 10 years and fine.	Court of Session.
256	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
257	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
258	Sale of counterfeit Government stamp ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
259	Having possession of a counterfeit Government stamp.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the first class.
260	Using as genuine a Government stamp known to be counterfeit.	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
261	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it with intent to cause wrongful loss to Government.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS—*(concluded)*.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
262	Using a Government stamp known to have been before used.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
263	Erasure of mark denoting that stamp has been used.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first class.

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

264	Fraudulent use of false instrument for weighing.	Shall not arrest without warrant.	Summons	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
265	Fraudulent use of false weight or measure.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
266	Being in possession of false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
267	Making or selling false weights or measures for fraudulent use.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

269	Negligently doing any act known to be likely to spread infection of any disease dangerous to life.	May arrest without warrant.	Summons...	Bailable ...	Imprisonment of either description for 6 months, or fine, or both.	Magistrate of the first or second class.
270	Malignantly doing any act known to be likely to spread infection of any disease dangerous to life.	Ditto	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
271	Knowingly disobeying any quarantine rule.	Shall not arrest without warrant	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Ditto.
272	Adulterating food or drink for man, intended for sale, so as to make the same noxious.	Ditto .	Ditto ..	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
273	Selling any food or drink as food and drink for man knowing the same to be noxious,	Ditto .	Ditto ..	Ditto ...	Ditto	Ditto.
274	Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious.	Ditto	Ditto ...	Ditto ..	Ditto	Ditto.
275	Offering for sale or issuing from a dispensary any drug or medical preparation known to have been adulterated.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
276	Knowingly selling or issuing from a dispensary any drug or medical preparation as a different drug or medical preparation.	Ditto .	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*(continued)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
277	Defiling the water of a public spring or reservoir.	May arrest without warrant.	Summons...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
278	Making atmosphere noxious to health...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 500 rupees ...	Ditto.
279	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
280	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Magistrate of the first or second class.
281	Exhibition of a false light, mark, or buoy.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
282	Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life.	Ditto ...	Summons...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
283	Causing danger, obstruction, or injury in any public way or line of navigation.	Ditto ...	Ditto ...	Ditto ...	Fine of 200 rupees ...	Ditto.

284	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 6 months, or fine of 1,000 rupees, or both.	Ditto.
285	Dealing with fire or any combustible matter so as to endanger human life, &c.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.
286	So dealing with any explosive substance.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
287	So dealing with any machinery ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Magistrate of the first or second class.
288	A person omitting to guard against probable danger to human life by the fall of any building, over which he has a right entitling him to pull it down or repair it.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
289	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Any Magistrate.
290	Committing a public nuisance ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Fine of 200 rupees ...	Ditto.
291	Continuance of nuisance after injunction to discontinue.	May arrest without warrant.	Ditto ...	Ditto ...	Simple imprisonment for 6 months, or fine, or both.	Magistrate of the first or second class.
292	Sale, &c., of obscene books, &c. ...	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 3 months, or fine, or both.	Ditto.

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS—*(concluded)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
293	Having in possession obscene book, &c., for sale or exhibition.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Magistrate of the first or second class.
294	Obscene songs	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
294A	Keeping a lottery office	Shall not arrest without warrant.	Summons...	Ditto ...	Imprisonment of either description for 6 months, or fine, or both.	Any Magistrate.
	Publishing proposals relating to lotteries	Ditto ...	Ditto ...	Ditto ...	Fine of 1,000 rupees ...	Ditto.

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

295	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
296	Causing a disturbance to an assembly engaged in religious worship.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Ditto.

297	Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
298	Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight, of any person, with intention to wound his religious feeling.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Offences affecting life.

302	Murder	May arrest without warrant.	Warrant ...	Not bailable.	Death, transportation for life and fine.	Court of Session.
303	Murder by a person under sentence of transportation for life.	Ditto ...	Ditto ...	Ditto ...	Death	Ditto.
304	Culpable homicide not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
304A	Causing death by rash or negligent act ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for two years, or fine, or both.	Court of Session, or Magistrate of the first class.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*(continued).*

Offences affecting life—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
305	Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated.	May arrest without warrant.	Warrant ...	Not bailable.	Death, or transportation for life, or imprisonment for 10 years and fine.	Court of Session.
306	Abetting the commission of suicide ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto
307	Attempt to murder	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
308	Attempt to commit culpable homicide ...	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
	If such act cause hurt to any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
309	Attempt to commit suicide ...	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for one year and fine.	Magistrate of the first or second class.
311	Being a thug ...	Ditto ...	Ditto ...	Not bailable	Transportation for life and fine.	Court of Session.

Of the causing of Miscarriage; of Injuries to unborn Children; of the Exposure of Infants; and of the Concealment of Births.

312	Causing miscarriage	Shall not arrest without warrant.	Warrant	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session.
	If the woman be quick with child	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
313	Causing miscarriage without woman's consent.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
314	Death caused by an act done with intent to cause miscarriage.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
	If act done without woman's consent	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
315	Act done with intent to prevent a child being born alive, or to cause it to die after its birth.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years, or fine, or both.	Ditto.
316	Causing death of a quick unborn child by an act amounting to culpable homicide.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
317	Exposure of a child under 12 years of age, by parent or person having care of it, with intention of wholly abandoning it.	May arrest without warrant.	Ditto ...	Bailable ...	Imprisonment of either description for 7 years, or fine, or both.	Ditto.
318	Concealment of birth by secret disposal of dead body.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*(continued)*.

Of Hurt.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
323	Voluntarily causing hurt	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Any Magistrate.
324	Voluntarily causing hurt by dangerous weapons or means.	May arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.
325	Voluntarily causing grievous hurt ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
326	Voluntarily causing grievous hurt by dangerous weapons or means.	Ditto ...	Ditto ...	Not bailable	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, or Magistrate of the first class.
327	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session.
328	Administering stupefying drug with intent to cause hurt.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

329	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
330	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
331	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Ditto.
332	Voluntarily causing hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Bailable. ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first class.
333	Voluntarily causing grievous hurt to deter public servant from his duty.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Court of Session.
334	Voluntarily causing hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
335	Causing grievous hurt on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 4 years, or fine of 2,000 rupees, or both.	Court of Session, or Magistrate of the first or second class.
336	Doing any act which endangers human life or the personal safety of others.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 250 rupees, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*(continued)*.

Of Hurt—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
337	Causing hurt by an act which endangers human life, &c.	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 6 months, or fine of 500 rupees, or both.	Magistrate of the first or second class.
338	Causing grievous hurt by an act which endangers human life, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine of 1,000 rupees, or both.	Ditto.

Of wrongful Restraint and wrongful Confinement.

341	Wrongfully restraining any person ...	May arrest without warrant.	Summons ...	Bailable ...	Simple imprisonment for 1 month, or fine of 500 rupees, or both.	Any Magistrate.
342	Wrongfully confining any person ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Magistrate of the first or second class.
343	Wrongfully confining for three or more days	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.

344	Wrongfully confining for ten or more days.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the first or second class.
345	Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to imprisonment under any other section.	Ditto.
346	Wrongful confinement in secret ...	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
347	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Ditto.
348	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session or Magistrate of the first class.

Of Criminal Force and Assault.

352	Assault or use of criminal force otherwise than on grave provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
353	Assault or use of criminal force to deter a public servant from discharge of his duty.	May arrest without warrant.	Warrant ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
354	Assault or use of criminal force to a woman with intent to outrage her modesty.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*(continued)*.

Of Criminal Force and Assault—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
355	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
356	Assault or criminal force in attempt to commit theft of property worn or carried by a person.	May arrest without warrant.	Warrant ...	Not bailable.	Ditto	Any Magistrate.
357	Assault or use of criminal force in attempt wrongfully to confine a person.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
358	Assault or use of criminal force on grave and sudden provocation.	Shall not arrest without warrant.	Summons ...	Ditto ...	Simple imprisonment for 1 month, or fine of 200 rupees, or both.	Ditto.

Of Kidnapping, Forcible Abduction, Slavery and forced Labour.

363	Kidnapping	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 7 years and fine.	Court of Session, or Magistrate of the first class.

364	Kidnapping or abducting in order to murder	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
365	Kidnapping or abducting with intent secretly and wrongfully to confine a person.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
366	Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
367	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
368	Concealing or keeping in confinement a kidnapped person.	Ditto ...	Ditto ...	Ditto ...	Punishment for kidnapping or abduction.	Ditto.
369	Kidnapping or abducting a child with intent to take property from the person of such child.	Ditto ...	Ditto	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
370	Buying or disposing of any person as a slave.	Shall not arrest without warrant.	Ditto ...	Bailable ...	Ditto	Ditto.
371	Habitual dealing in slaves	May arrest without warrant.	Ditto ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
372	Selling or letting to hire a minor for the purpose of prostitution.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Court of Session, or Magistrate of the first class.
373	Buying or obtaining possession of a minor for the same purpose.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
374	Unlawful compulsory labour	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Any Magistrate.

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY—*(concluded).*

Of Rape.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
376	Rape...	May arrest without warrant.	Warrant ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

Of Unnatural Offences.

377	Unnatural offences	May arrest without warrant.	Warrant ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

Of Theft.

379	Theft	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 3 years, or fine, or both.	Any Magis-
380	Theft in a building, tent, or vessel ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

381	Theft by clerk or servant, of property in possession of master or employer.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the first or second class.
382	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 10 years and fine.	Court of Session.

Of Extortion.

384	Extortion	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session or Magistrate of the first or second class.
385	Putting or attempting to put in fear of injury, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
386	Extortion by putting a person in fear of death or grievous hurt.	Ditto ...	Ditto ...	Not bailable	Imprisonment of either description for 10 years and fine.	Court of Session.
387	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
388	Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*(continued)*.

Of Extortion—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
	If the offence threatened be an unnatural offence.	Shall not arrest without warrant.	Warrant ...	Not bailable.	Transportation for life ...	Court of Session.
389	Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion.	Ditto ...	Ditto ...	Ditto ..	Imprisonment of either description for 10 years and fine.	Ditto.
	If the offence be an unnatural offence ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life ...	Ditto.

Of Robbery and Dacoity.

392	Robbery	May arrest without warrant.	Warrant ...	Not bailable.	Rigorous imprisonment for 10 years and fine.	Court of Session, or Magistrate of the first class.
	If committed on the highway between sunset and sunrise.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 14 years and fine.	Ditto.
393	Attempt to commit robbery	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.

394	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
395	Dacoity	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session.
396	Murder in dacoity	Ditto ...	Ditto ...	Ditto ..	Death, transportation for life, or rigorous imprisonment for 10 years and fine.	Ditto.
397	Robbery or dacoity with attempt to cause death or grievous hurt.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for not less than 7 years.	Ditto.
398	Attempt to commit robbery or dacoity when armed with deadly weapon.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
399	Making preparation to commit dacoity ...	Ditto ...	Ditto ..	Ditto ...	Rigorous imprisonment for 10 years and fine.	Ditto.
400	Belonging to a gang of persons associated for the purpose of habitually committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
401	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts.	Ditto ...	Ditto ...	Ditto ...	Rigorous imprisonment for 7 years and fine.	Ditto.
402	Being one of five or more persons assembled for the purpose of committing dacoity.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*(continued)*.

Of Criminal Misappropriation of Property.

1 Section.	Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
403	Dishonest misappropriation of moveable property, or converting it to one's own use.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
404	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the first or second class.
	If by clerk or person employed by deceased.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.

Of Criminal Breach of Trust.

406	Criminal breach of trust	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.
407	Criminal breach of trust by a carrier, wharfinger, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, or Magistrate of the first class.

408	Criminal breach of trust by a clerk or servant	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the first or second class.
409	Criminal breach of trust by public servant, or by banker, merchant or agent, &c. ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session, or Magistrate of the first class.

Of the receiving of Stolen Property.

411	Dishonestly receiving stolen property, knowing it to be stolen.	May arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.
412	Dishonestly receiving stolen property, knowing that it was obtained by dacoity.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
413	Habitually dealing in stolen property ...	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
414	Assisting in concealment or disposal of stolen property, knowing it to be stolen.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*(continued)*.

Of Cheating.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
417	Cheating	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
418	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both,	Court of Session, or Magistrate of the first or second class.
419	Cheating by personation	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
420	Cheating and thereby dishonestly inducing delivery of property, or the alteration or destruction of a valuable security.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session, or Magistrate of the first class.

Of Fraudulent Deeds and Dispositions of Property.

421	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors.	Shall not arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.

422	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
423	Fraudulent execution of deed of transfer containing a false statement of consideration.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
424	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

Of Mischief.

426	Mischief	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine, or both.	Any Magistrate.
427	Mischief, and thereby causing damage to the amount of 50 rupees or upwards.	Ditto ...	Warrant ...	Ditto ..	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
428	Mischief by killing, poisoning, maiming or rendering useless, any animal of the value of 10 rupees or upwards.	Ditto ...	Ditto	Ditto ...	Ditto	Ditto.
429	Mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 rupees or upwards.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*(continued)*.

Of Mischief—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
430	Mischief by causing diminution of supply of water for agricultural purposes, &c.	May arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.
431	Mischief by injury to public road, bridge, river, or navigable channel, and rendering it impassable or less safe for travelling, or conveying property.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
432	Mischief by causing inundation or obstruction to public drainage, attended with damage.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
433	Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session.
434	Mischief by destroying or moving, &c., a landmark fixed by public authority.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
435	Mischief by fire or explosive substance, with intent to cause damage to amount of 100 rupees or upwards.	May arrest without warrant	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Court of Session.

436	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Ditto ...	Ditto ...	Not bailable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
437	Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
438	The mischief described in the last section, when committed by fire or any explosive substance.	Ditto ...	Ditto ...	Ditto ..	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
439	Running vessel ashore with intent to commit theft, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.
440	Mischief committed after preparation made for causing death or hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto

Of Criminal Trespass.

447	Criminal trespass	May arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 3 months, or fine of 500 rupees, or both.	Any Magistrate.
448	House-trespass	Ditto ...	Warrant ...	Ditto ...	Imprisonment of either description for 1 year, or fine of 1,000 rupees, or both.	Ditto.
449	House-trespass in order to the commission of an offence punishable with death.	Ditto ...	Ditto ..	Not bailable.	Transportation for life, or rigorous imprisonment for 10 years and fine.	Court of Session.
450	House-trespass in order to the commission of an offence punishable with transportation for life.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY—*(concluded)*.

Of Criminal Trespass—concluded.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
451	House-trespass in order to the commission of an offence punishable with imprisonment.	May arrest without warrant.	Warrant ..	Bailable ...	Imprisonment of either description for 2 years and fine.	Any Magistrate.
	If the offence is theft ...	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 7 years and fine.	Court of Session, or Magistrate of the first or second class.
452	House-trespass, having made preparation for causing hurt, assault, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
453	Lurking house-trespass, or house-breaking..	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years and fine.	Magistrate of the first or second class.
454	Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ..	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the first or second class.
	If the offence is theft ...	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 10 years and fine.	Ditto.

455	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c. ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the first class.
456	Lurking house-trespass or house-breaking by night.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the first or second class.
457	Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 5 years and fine.	Ditto.
	If the offence is theft ...	Ditto ..	Ditto ...	Ditto ...	Imprisonment of either description for 14 years and fine.	Ditto.
458	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Court of Session, or Magistrate of the first class.
459	Grievous hurt caused whilst committing lurking house-trespass or house-breaking.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
460	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
461	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both. ...	Magistrate of the first or second class.
462	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

1	2	3	4	5	6	7
Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable.
465	Forgery	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Court of Session.
466	Forgery of a record of a Court of justice or of a Register of births, &c., kept by a public servant.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 7 years and fine.	Ditto.
467	Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 10 years and fine.	Ditto.
	When the valuable security is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Ditto ...	Ditto	Ditto.
468	Forgery for the purpose of cheating ...	Shall not arrest without warrant.	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
469	Forgery for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 3 years and fine.	Ditto.
471	Using as genuine a forged document which is known to be forged.	Ditto ...	Ditto ...	Ditto ...	Punishment for forgery ...	Ditto.

	When the forged document is a promissory note of the Government of India.	May arrest without warrant.	Ditto ...	Not bailable.	Ditto	Ditto.
472	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under section 467 of the Indian Penal Code; or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit.	Shall not arrest without warrant.	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.
473	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
474	Having possession of a document, knowing it to be forged, with intent to use it as genuine.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
	If the document is a valuable security or will.	Ditto ...	Ditto ...	Ditto ...	Transportation for life, or as above.	Ditto.
475	Counterfeiting a device or mark used for authenticating documents described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
476	Counterfeiting a device or mark used for authenticating documents other than those described in section 467 of the Indian Penal Code, or possessing counterfeit marked material.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
477	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Ditto ..	Ditto ...	Ditto ...	Transportation for life, or imprisonment of either description for 7 years and fine.	Ditto.

CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS—*(concluded).*

Of Trade and Property-Marks.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
482	Using a false trade or property-mark with intent to deceive or injure any person.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
483	Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Ditto.
484	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.	Ditto ...	Summons ...	Ditto ...	Imprisonment of either description for 3 years and fine.	Court of Session, or Magistrate of the first class.
485	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Ditto.
486	Knowingly selling goods marked with a counterfeit property or trade-mark.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.

487	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 years, or fine, or both.	Court of Session, or Magistrate of the first or second class.
488	Making use of any such false mark ...	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
489	Removing, destroying, or defacing, any property-mark with intent to cause injury.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.

CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

490	Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so.	Shall not arrest without warrant.	Summons ...	Bailable ...	Imprisonment of either description for 1 month, or fine of 100 rupees, or both.	Magistrate of the first or second class.
491	Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind or disease, and voluntarily omitting to do so.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 3 months, or fine of 200 rupees, or both.	Ditto.
492	Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 1 month, or fine of double the expense incurred, or both.	Ditto.

CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

1	2	3	4	5	6	7
Section	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable or not.	Punishment under the Indian Penal Code.	By what Court triable
493	A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him, in that belief.	Shall not arrest without warrant.	Warrant ...	Not bailable.	Imprisonment of either description for 10 years and fine.	Court of Session.
494	Marrying again during the life-time of a husband or wife.	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 7 years and fine.	Ditto.
495	Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 10 years and fine.	Ditto.
496	A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years and fine.	Ditto.
497	Adultery	Ditto ...	Ditto ...	Bailable ...	Imprisonment of either description for 5 years, or fine, or both.	Ditto.
498	Enticing or taking away or detaining with a criminal intent a married woman.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.

CHAPTER XXI.—OF DEFAMATION.

500	Defamation	Shall not arrest without warrant.	Warrant ...	Bailable ...	Simple imprisonment for 2 years, or fine, or both.	Court of Session, or Magistrate of the first class.
501	Printing or engraving matter knowing it to be defamatory.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.
502	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter.	Ditto ...	Ditto ...	Ditto ...	Ditto	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504	Insult intended to provoke a breach of the peace.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 2 years, or fine, or both.	Any Magistrate.
505	False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace.	Ditto ...	Ditto ...	Not bailable.	Imprisonment of either description for 2 years, or fine, or both.	Magistrate of the first or second class.
506	Criminal intimidation	Ditto ...	Ditto ...	Bailable ...	Ditto	Ditto.
	If threat be to cause death or grievous hurt, &c.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 7 years, or fine, or both.	Court of Session, or Magistrate of the first class.
507	Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes.	Ditto ...	Ditto ...	Ditto ...	Imprisonment of either description for 2 years, in addition to the punishment under above section.	Ditto.

CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE—*(concluded)*.

1 Section.	2 Offence.	3 Whether the Police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Indian Penal Code.	7 By what Court triable.
508	Act caused by inducing a person to believe that he will be rendered an object of Divine displeasure.	Shall not arrest without warrant.	Warrant ...	Bailable ...	Imprisonment of either description for 1 year, or fine, or both.	Magistrate of the first or second class.
509	Uttering any word or making any gesture intended to insult the modesty of a woman.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 1 year, or fine, or both.	Magistrate of the first class.
510	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person.	Ditto ...	Ditto ...	Ditto ...	Simple imprisonment for 24 hours, or fine of 10 rupees, or both.	Any Magistrate.

CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

511	Attempting to commit offences punishable with transportation or imprisonment, and in such attempt doing any act towards the commission of the offence.	According as the offence is one in respect of which the Police may arrest without warrant or not.	According as the offence is one in respect of which a summons or warrant shall ordinarily issue.	According as the offence contemplated by the offender is bailable or not.	Transportation or imprisonment not exceeding half of the longest term, and of the description, provided for the offence, or fine, or both.	By the Court by which the offence attempted is triable.

OFFENCES AGAINST OTHER LAWS.

If punishable with death, transportation, or imprisonment for seven years or upwards.	May arrest without warrant.	Warrant ...	Not bailable.	.....	According to the provisions of section eight of this Code.
If punishable with imprisonment for three years and upwards but less than seven.	Ditto ...	Ditto ...	Ditto ...	.....	
If punishable with imprisonment for less than three years.	Shall not arrest without warrant.	Summons...	Bailable ...	.....	
If punishable with fine only	Ditto ...	Ditto ...	Ditto ...	.....	

SCHEDULE V.

Acts of the Governor General of India in Council.

Acts and sections containing reference.	Section or chapter of the former Code quoted.	Section or chapter of this Code to be substituted.
XVIII of 1864, s. 19 ...	61	307
XXI of 1864, s. 2 ...	62	518
	63	519
	308	521
	309	522
	310	523
	311	525
	312	526
	313	527
	314	528
XXII of 1864, ss. 3 & 5 ...	23	37
XIII of 1865, s. 29 ...	Chap. XIII	Chapter XXXIII.
s. 35 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411 and 412.
s. 39 ...	380	287
s. 40 ...	Chap. XXVI	Chapter XXXIV.
s. 41 ...	383	301
XIX of 1865, s. 9 ...	23	37
IV of 1866, s. 30 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411 and 412.
s. 33 ...	380	287
s. 34 ...	Chap. XXVI	Chapter XXXIV.
s. 35 ...	385	305
XXIV of 1866, s. 11 ...	Sections 336 to 340 (both inclusive).	407, 409, 410, 411 and 412.
s. 14 ...	380	287
s. 15 ...	Chap. XXVI	Chapter XXXIV.
s. 16 ...	385	305
III of 1867, s. 17 ...	61	307
XV of 1867, s. 19 ...	61	307
XXII of 1867, s. 14 ...	61	307
XXIII of 1867, s. 5 ...	Sections 248 to 255 (both inclusive).	149, Chapter XVII and the provisions applicable to warrant cases.
s. 6 ...	334 and 335	405 and 406
I of 1868, s. 5 ...	61	307
VI of 1868, s. 19 ...	308	521
	and Chap. XX	521 to 529 (both inclusive).
s. 35 ...	61	307
XIII of 1869, s. 2 ...	198	338 and 339
	and 364	334, 335, 337, 338, 339 and 340.
XVIII of 1869, s. 18, cl. (*b*)	Chap. XXII	Chapter XL.
XXI of 1869, s. 30 ...	Chap. XIX	Chapter XXXVIII.
VIII of 1870, s. 6. ...	61	307
	and 316	536
IX of 1871, sch. II, No. 46	Chap. XXII	Chapter XL.

Acts of the Governor of Madras in Council.

Acts and sections containing reference.	Section or chapter of the former Code quoted.	Section or chapter of this Code to be substituted.
III of 1864, s. 23 ...	Chap. VIII	Chapter XXVII and sections 415 to 420 (both inclusive).
X of 1865, s. 116 ...	Chap. XX	Sections 521 to 529 (both inclusive).
I of 1866, ss. 3 and 5 ...	s 23	37
I of 1867, s. 1 ...	Chap. I	Chapter I.
VIII of 1867, s. 4 ...	s. 68	142
	s. 97	183
	127	377
	128	378
	129	381
	130	415
	131	416
	132	417
	133	109 & 110
	137	117 (first clause).
	152	124
	153	125
	97	183
s. 9	Chap. IV	Sections 139, 140, 144, 141, 147, 142 and Chapter XII.
	Chap. V	Sections 159, 161, 163, 164, 165, 166, 91, 167, 168, 169, 170, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184 and 185.
	Chap. VI	Sections 92, 94, 95, 96 97, 98, 99, 100, 93, 101, 108 and 480.
	Chap. VII	Section 92, clause sixth, latter part.
	Chap. VIII	Chapter XXVII and sections 415 to 420 (both inclusive).
	Chap. IX	Sections 109, 110, 111, 114, 116, 117 first part, 89, 112, 102, 103, 379, 380, 118, 119, 120, 121, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133 and 136.
	With the exception of sections	
	125	385
	147	121
	148	Re-enacted in Act No. I of 1872 (Evidence Act).
	149	
	150	
	154	126
	158	130
	160	132
	161	133
	151	123
III of 1871, s. 132 ...	Chap. XX	Sections 521 to 529 (both inclusive).

Acts of the Governor of Bombay in Council.

Acts and sections containing reference.	Section or chapter of the former Code quoted.	Section or chapter of this Code to be substituted.
VI of 1862, s. 18	61	307
III of 1867, ss. 4 and 6	23	37
II of 1868, s. 15	61	307

Acts of the Lieutenant Governor of Bengal in Council.

Acts and sections containing reference.	Section or chapter of the former Code quoted.	Section or chapter of this Code to be substituted.
II of 1863, s 7	61	307
VI of 1863, s. 238	61	307
III of 1864, s. 6	23	37
s 80	61	307
VII of 1864, s. 28	Chap. VIII	Chapter XXVII and sections 415 to 420 (both inclusive).
IV of 1865, s. 4	Chap. XV	Chapter XVI and the provisions applicable to summons cases.
II of 1866, s. 48	s. 61	307
V of 1866, s. 51	s. 61	307
II of 1867, s. 14	s. 61	307
III of 1867, s. 17	s. 61	307
V of 1867, s. 4	s. 61	307
IV of 1871, s. 19	Chap. XV	Chapter XVI and the provisions applicable to summons cases.

ACT No. XI OF 1872.

BENGAL SECRETARIAT LIBRARY.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 25th April 1872*).

An Act to provide for the trial of offences committed in places beyond British India and for the Extradition of Criminals.

WHEREAS by treaty, capitulation, agreement, grant, usage, sufferance and other lawful means, the Governor General of India in Council has power and jurisdiction within divers places beyond the limits of British India; and whereas such power and jurisdiction have from time to time been delegated to Political Agents and others acting under the authority of the Governor General in Council; and whereas doubts have arisen how far the exercise of such power and jurisdiction, and the delegation thereof, are controlled by and dependent on the laws of British India; and whereas it is expedient to remove such doubts, and to consolidate and amend the law relating to the exercise and delegation of such power and jurisdiction, and to offences committed by British subjects beyond the limits of British India, and to the extradition of criminals; It is enacted as follows:— Preamble.

1. This Act may be called "The Foreign Jurisdiction and Extradition Act, 1872:" Short title.

It extends to the whole of British India; Extent.

to all Native Indian subjects of Her Majesty without and beyond the Indian territories under the dominion of Her Majesty; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

and it shall come into force on the passing thereof. Commencement.

2. The

[*Price two annas and nine pies*].

Repeal of enactments

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column thereof.

'Political Agent' defined.

3. In this Act the expression 'Political Agent' means and includes—

(1) the principal officer representing the British Indian Government in any territory or place beyond the limits of British India;

(2) any officer in British India appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, to exercise all or any of the powers of a Political Agent under this Act for any place not forming part of British India:

'Native State.'

'Native State' means,

in reference to Native Indian subjects of Her Majesty, all places without and beyond the Indian territories under the dominion of Her Majesty; and,

in reference to European British subjects, the dominions of Princes and States in India in alliance with Her Majesty.

Powers of British Officers in Places beyond British India.

Exercise of powers of Governor General in places beyond British India, and delegation thereof.

4. The Governor General in Council may exercise any power or jurisdiction which the Governor General in Council now has, or may at any time hereafter have, within any country or place beyond the limits of British India; and may delegate the same to any servant of the British Indian Government, in such manner and to such extent as to the Governor General in Council from time to time seems fit.

Notification of exercise or delegation of such powers.

5. A notification in the *Gazette of India* of the exercise by the Governor General in Council of any such power or jurisdiction, and of the delegation thereof by him to any person or class of persons, and of the rules of procedure or other conditions to which such persons are to conform, and of the local area within which their powers are to be exercised, shall be conclusive proof in any Court of the truth of the matters stated in the notification.

6. The

6. The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, in any such country or place, to be a Justice of the Peace; and every such Justice of the Peace shall have all the powers conferred on Magistrates of the first class, who are Justices of the Peace and European British subjects, by any law for the time being in force in British India relating to Criminal Procedure. The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

Appointment, powers and jurisdiction of Justices of the Peace.

7. All Political Agents and all Justices of the Peace heretofore appointed by the Governor General in Council, or the Governor in Council of the Presidency of Fort St. George or Bombay, in any such country or place as aforesaid, shall be deemed to be and to have been appointed, and to have and to have had jurisdiction, under the provisions of this Act.

Confirmation of existing Political Agents and Justices.

8. The law relating to offences and to Criminal Procedure for the time being in force in British India shall, subject as to procedure to such modifications as the Governor General in Council from time to time directs, extend to all British subjects, European and Native, in Native States.

Extension of criminal law of British India to British subjects in Native States.

INQUIRIES, IN BRITISH INDIA, INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN PLACES BEYOND BRITISH INDIA.

9. All British subjects, European and Native, in British India may be dealt with, in respect of offences committed by them in any Native State, as if such offences had been committed in any place within British India in which any such subject may be or may be found:

Liability of British subjects for offences committed in Native States

Provided that no charge as to any such offence shall be inquired into in British India, unless the Political Agent, if there be such, for the territory in which the offence is said to have been committed, certifies that, in his opinion, the charge is one which ought to be inquired into in British India:

Political Agent to certify fitness of inquiry into charge.

Provided also that any proceedings taken against any person under this section, which would be a bar to

to subsequent proceedings against such person for the same offence, if such offence had been committed in British India, shall be a bar against further proceedings against him, under this Act, in respect of the same offence in any Native State.

Power to direct copies of depositions and exhibits to be received in evidence.

10. Whenever any such offence as is referred to in section nine is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions made or exhibits produced before the Political Agent or a Judicial Officer in the State in which such offence is alleged to have been committed shall be received as evidence by the Court holding such inquiry or trial, in any case in which such Court might issue a commission for taking evidence as to the matters to which such depositions or exhibits relate.

EXTRADITION.

Arrest and removal of persons, other than European British subjects, escaping into British India.

11. When an offence has been committed, or is supposed to have been committed, in any State against the law of such State by a person not being a European British subject, and such person escapes into or is in British India, the Political Agent for such State may issue a warrant for his arrest and delivery at a place in such State, and to a person to be named in the warrant,

if such Political Agent thinks that the offence is one which ought to be inquired into in such State,

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the second schedule hereto, or under any other section of the said Code or any other law which may, from time to time, be specified by the Governor General in Council by a notification in the Gazette.

Direction and execution of warrant.

12. Such warrant may be directed to the Magistrate of any district in which the accused person is believed to be; and shall be executed in the manner provided by the law for the time being in force with reference to the execution of warrants; and the accused person, when arrested, shall be forwarded to the

the place and delivered to the officer named in the warrant.

13. Such Political Agent may either dispose of the case himself, or may give over the person so forwarded, whether he be a Native Indian subject of Her Majesty or not, to be tried by the ordinary Courts of the State in which the offence was committed, if he is generally or specially directed to do so by the Governor General in Council, or by the Governors in Council of the Presidency of Fort St. George or Bombay respectively.

Political Agent may himself dispose of case, or make over person to ordinary Courts for trial.

14. Whenever a requisition is made to the Governor General in Council or any Local Government, by or by the authority of the persons for the time being administering the executive government of any part of the dominions of Her Majesty, or the territory of any Foreign Prince or State, that any person accused of having committed an offence in such dominions or territory should be given up, the Governor General in Council or such Local Government, as the case may be, may issue an order to any Magistrate who would have had jurisdiction to inquire into the offence if it had been committed within his local jurisdiction, directing him to inquire into the truth of such accusation.

Requisitions for extradition by the executive of any part of British dominions, or Foreign power.

The Magistrate so directed shall issue a summons or warrant for the arrest of such person, according as the offence named appears to be one for which a summons or warrant would ordinarily issue; and shall inquire into the truth of such accusation, and shall report thereon to the Government by which he was directed to hold the said inquiry. If, upon receipt of such report, such Government is of opinion that the accused person ought to be given up to the persons making such requisition, it may issue a warrant for the custody and removal of such accused person and for his delivery at a place and to a person to be named in the warrant.

The provisions of section ten shall apply to inquiries held under this section.

This section shall not affect the provisions of any law or treaty for the time being in force as to the extradition

extradition of offenders; but the procedure provided by any such law or treaty shall be followed in every case to which it applies.

Power to make rules

15. The Governor General in Council may make, and may from time to time alter, rules to provide for—

(1) the confinement, diet and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the persons named in the warrant, as entitled to receive them;

(3) and generally to carry out the purposes of this Act.

SHEDULE I.

SCHEDULE I.

Enactments Repealed.

[*See section* 2.]

Number and year.	Title.	Extent of repeal.
26 Geo. III, Cap. 57.	An Act for the further Regulation of the trial of Persons accused of certain offences committed in the East Indies; for repealing so much of an Act, made in the twenty-fourth year of the reign of his present Majesty (intituled An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of Persons accused of Offences committed in the East Indies), as requires the Servants of the East India Company to deliver Inventories of their Estates and Effects; for rendering the Laws more effectual against Persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of Deeds and Writings executed in Great Britain or India.	Section twenty-nine.
33 Geo. III, Cap. 52.	An Act for continuing in the East India Company, for a further term, the possession of the British Territories in India, together with their exclusive Trade, under certain limitations; for establishing further Regulations for the government of the said Territories, and the better Administration of Justice within the same; for appropriating to certain uses the Revenues and Profits of the said Company; and for making provision for the good order and government of the Towns of Calcutta, Madras and Bombay.	Section sixty-seven.
Act I of 1849.	An Act to provide more effectually for the punishment of offences committed in Foreign States.	So much as is unrepealed.
Act VII of 1854.	An Act for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.	So much as is unrepealed.

SCHEDULE II.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION 11.

Sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 468, both inclusive; sections 471 to 477, both inclusive.

Office Supdt. Govt. Printing.—No. 91 L. D.—19-9-73.—500

ACT No. XII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 26th April 1872*).

An Act to amend Act XII of 1870 (the Native Passenger Ships Act).

WHEREAS it is expedient to amend Act XII of 1870 (the Native Passenger Ships Act); It is hereby enacted as follows:— Preamble.

1. Instead of section two of the said Act, the following shall be read: Amendment of section 2, Act XII of 1870.

"**2.** This Act extends to British India, and applies also to all subjects of Her Majesty within the dominions of Princes and States in alliance with Her Majesty, and to all Native Indian subjects of Her Majesty without and beyond British India. Extent of Act.

"Nothing in this Act applies to any Ship-of-War or transport belonging to or in the service of Her Majesty, or to any Ship-of-War belonging to any foreign Prince or State, or to any ship under contract with the Government of any European State. Act not to apply to Ships-of-War, &c.

"The Local Government may, if it thinks fit, exempt any steamer or class of steamers, carrying not more than sixty passengers, being Natives of Asia or Africa, from the operation of this Act, for any period not exceeding one year. Power to exempt steamers from operation of Act.

"Such exemption may be from time to time renewed for any period not exceeding one year."

2. Instead of the last paragraph of section four of the said Act, the following shall be read: Amendment of section 4.

"The words 'Native Passenger Ship' mean a vessel, whether sailing or steam, carrying more than thirty passengers, being Natives of Asia or Africa; provided that 'Native Passenger Ship.'

[*Price one anna and six pies.*]

that no person in attendance upon another person other than a Native of India, shall be deemed a passenger for the purposes of this section."

Addition to section 12.

3. After section twelve of the said Act, the following proviso shall be added:

"Provided that, in the case of steam ships, the officer aforesaid may, if under the circumstances of the case he thinks fit, reduce the space to be appropriated to passengers in the between-decks under the requirements of this section, to a space containing at the least nine superficial and fifty-four cubical feet of space for every adult passenger on board."

Addition to section 21.

4. After section twenty-one of the said Act, the following proviso shall be added:

"Provided also that, in the case of steam ships provided with a condenser, the officer authorized in that behalf may, if under the circumstances of the case he thinks fit, reduce the amount of water to be provided under the requirements of this section to an amount not less than four gallons to every week of the declared duration of the voyage, for every passenger on board."

Addition after section 26.

5. After section twenty-six of the said Act, the following shall be read :—

Penalty on Master of Native Passenger Ship, bound from Turkish to Indian port, entering latter without clean bill of health in breach of Convention.

"**26A.** Whenever a Convention shall have been entered into between the Government of Her Majesty the Queen and the Turkish Government, that every Master of a Native Passenger Ship leaving a Turkish port or place and bound for any port or place in British India, whether such ship be owned by a subject of Her Majesty or not, shall execute a bond binding him in a penalty to touch at Aden, and not to proceed thence without a clean bill of health, obtained in the manner provided in section twenty-five, any Master of any such ship, whether he be a subject of Her Majesty or not, who shall come into any port or place in British India without such clean bill of health, may be taken by the officer in charge of such port or place before any Magistrate having local jurisdiction ; and on proof that such Master has come from a Turkish port or place, such Magistrate shall presume

sume that such bond was duly executed by such Master, and in default of production of such clean bill of health, shall presume that the penalty mentioned in such bond has been incurred; and may award the full amount or any part of such penalty against such Master, and, in default of payment of such penalty, may recover it as though it were a fine imposed under this Act."

Addition after section 38.

6. After section thirty-eight of the said Act, the following section shall be added as section thirty-nine:—

Saving of Act XXV of 1859.

"**39.** Nothing in this Act shall affect the provisions of Act XXV of 1859 (*to prevent the overcrowding of vessels carrying Native Passengers in the Bay of Bengal*)."

Act to be read as part of Act XII of 1870.

7. This Act shall be read as part of Act XII of 1870.

Office Supdt of Govt Printing—No. 79 L D 9-5-72.—3,100.

ACT No XIII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 26th April* 1872).

An Act to amend Act XV of 1859.

WHEREAS, by Act XV of 1859, provision was made for the grant of certain privileges to the inventors of new manufactures; and whereas it is desirable that provision should be made for the grant of similar privileges to the inventors of new patterns and designs in British India; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Patterns and Designs Protection Act, 1872:" Short title.

It extends to the whole of British India, and shall come into force on the passing thereof. Extent. Commencement.

2. At the end of section one of the said Act XV of 1859, the following shall be read:— Addition to section I of Act XV of 1859.

"For the purposes of this Act, 'New manufacture' shall be deemed to include any new and original pattern or design, or the application of such pattern or design to any substance or article of manufacture." 'New manufacture' defined.

3. At the end of section IV of the said Act, the following shall be read:— Addition to section IV.

"Provided that, in the case of a pattern or design or the application thereof to any substance or article of manufacture, such privilege shall be granted for the term of three years and no more."

4. After section XXXVII of the said Act, the following shall be read:— Addition after section XXXVII.

"XXXVIIA. Whenever

[*Price one anna and three pies.*]

Persons invested by English law with rights as to patterns and designs, to have same rights in British India.

"XXXVIIA. Whenever, by any law for the time being in force in the United Kingdom, any person is entitled in the United Kingdom to an exclusive right in any pattern or design, or in the application of such pattern or design to any substance or article of manufacture, such person shall be entitled in British India to the sole and exclusive right in such pattern or design, or in such application thereof, and shall be entitled in British India to the same civil remedies in respect of any infringement thereof in British India, as those to which he would be entitled in the United Kingdom in respect of an infringement thereof in the United Kingdom."

Act to be read as part of Act XV of 1859.

5. This Act shall be read with and as part of the said Act XV of 1859.

Office Supdt. Govt. Printing—No. 80 L. D.—9-5-72.—3,100.

ACT No. XIV of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 6th June 1872.)

An Act to exempt the Straits Settlements from the Indian Emigration Act, 1871.

WHEREAS it is expedient to provide for the exemption of the islands and territories known as the Straits Settlements from all or some of the provisions contained in the Indian Emigration Act, 1871; It is hereby enacted as follows:— Preamble.

1. The Governor General in Council may, from time to time, by notification in the *Gazette of India*, exempt emigration to, or contracts for labour to be performed in, the whole or any part of the said Settlements from all or any of the provisions contained in the Indian Emigration Act, 1871; Power to exempt Straits Settlements from Emigration Act.

and may also, from time to time, by like notification, revoke or alter any notification previously made under this Act.

2. No suit or other proceeding shall be maintained against any person for anything done or omitted, in respect of such emigration or contracts, before the date of the notification made under the first clause of section one. Bar of certain proceedings.

[*Price one anna.*]

Office of Supdt. Govt. Printing.—No 135 L. D.—20-6-72.—3,000

THE INDIAN CHRISTIAN MARRIAGE ACT, 1872.

ARRANGEMENT OF SECTIONS.

Preamble.

PRELIMINARY.

SECTIONS.

1. Short title.
   Extent.
   Commencement.
2. Enactments repealed.
3. Interpretation-clause.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

4. Marriages to be solemnized according to Act.
5. Persons by whom marriages may be solemnized.
6. Grant and revocation of licenses to solemnize marriages.
7. Marriage Registrars.
   Senior Marriage Registrar.
   Magistrate when to be Marriage Registrar.
8. Marriage Registrars in Native States.
9. Licensing of persons to grant certificates of marriage between Native Christians.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

10. Time for solemnizing marriage.
    Exceptions.
11. Place for solemnizing marriage.
    Fee for special license.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Notice of intended marriage.
13. Publication

[*Price ten annas and nine pies.*]

SECTIONS.

13. Publication of such notice.
Return or transfer of notice.
14. Notice of intended marriage in private dwelling.
15. Sending copy of notice to Marriage Registrar when one party is a minor.
16. Procedure on receipt of notice.
17. Issue of certificate of notice given and declaration made.
Proviso.
18. Declaration before issue of certificate.
19. Consent of father, or guardian, or mother.
20. Power to prohibit by notice issue of certificate.
21. Procedure on receipt of notice.
22. Issue of certificate in case of minority.
23. Issue of certificates to Native Christians.
24. Form of certificate.
25. Solemnization of marriage.
26. Certificate void if marriage not solemnized within two months.

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION.

27. Marriages when to be registered.
28. Registration of marriages solemnized by Clergymen of Church of England.
29. Quarterly returns to Archdeaconry.
Contents of returns.
30. Registration and returns of marriages solemnized by Clergymen of Church of Rome.
31. Registration and returns of marriages solemnized by Clergymen of Church of Scotland.
32. Certain marriages to be registered in duplicate.
33. Entries of such marriages to be signed and attested.
34. Certificate to be forwarded to Marriage Registrar, copied and sent to Government.
35. Copies of certificates to be entered and numbered.
36. Registrar to add number of entry to certificate, and send to Government.
37. Registration of marriages between Native Christians under Part I or III.
Custody and disposal of register-book.

PART V.

PART V.

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

SECTIONS.

38. Notice of intended marriage before Marriage Registrar.
39. Publication of notice.
40. Notice to be filed and copy entered in Marriage Notice Book.
41. Certificate of notice given and oath made.
Proviso.
42. Oath before issue of certificate.
43. Petition to High Court to order certificate in less than fourteen days.
Order on petition.
44. Consent of father or guardian.
Protest against issue of certificate.
Effect of protest.
45. Petition where person whose consent is necessary is insane, or unjustly withholds consent.
Procedure on petition.
46. Petition when Marriage Registrar refuses certificate.
Procedure on petition.
47. Petition when Marriage Registrar in Native State refuses certificate.
48. Petition when Registrar doubts authority of person forbidding.
Procedure on petition.
Reference when Marriage Registrar in Native State doubts authority of person forbidding.
Procedure on reference.
49. Liability for frivolous protest against issue of certificate.
50. Form of certificate.
51. Solemnization of marriage after issue of certificate.
52. When marriage not had within two months after notice, new notice required.
53. Marriage Registrar may ask for particulars to be registered.
54. Registration of marriages solemnized under Part V.
55. Certificates to be sent monthly to Secretary to Government.
Custody of register-book.
56. Officers to whom Registrars in Native States shall send certificates.
57. Registrars to ascertain that notice and certificate are understood by Native Christians.
58. Native Christians to be made to understand declarations.
59. Registration of marriages between Native Christians.

PART VI.

PART VI.

Marriage of Native Christians.

Sections.

60. On what conditions marriages of Native Christians may be certified.
61. Grant of certificate.
62. Register-book to be kept.
63. Searches in register-book and copies of entries.
64. Books in which marriages of Native Christians under Part I or Part III are registered.
65. Part VI not to apply to Roman Catholics.
Saving of certain marriages.

PART VII.

Penalties.

66. False oath, notice or certificate for procuring marriage;
67. Forbidding, by false personation, issue of certificate by Marriage Registrar;
68. Solemnizing marriage without due authority;
69. Solemnizing marriage out of proper time, or without witnesses;
Saving of marriages solemnized under special license;
70. Solemnizing, without notice or within fourteen days after notice, marriage with minor;
71. Issuing certificate, or marrying, without publication of notice;
Marrying after expiry of certificate;
Solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice;
Issuing certificate against authorized prohibition;
72. Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition;
73. Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland or Rome)—
issuing certificate or marrying without publishing notice,
or after expiry of certificate;
issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice;
issuing certificate authorizedly forbidden;
solemnizing marriage authorizedly forbidden;
74. Unlicensed person granting certificate pretending to be licensed.

SECTIONS.

75. Destroying or falsifying register-books.
76. Limitation of prosecutions under Act.

PART VIII.

MISCELLANEOUS.

77. What matters need not be proved in respect of marriage in accordance with Act.
78. Corrections of errors.
79. Searches and copies of entries.
80. Certified copy of entry in marriage register, &c., to be evidence.
81. Sending certificates of certain marriages to Secretary of State for India.
82. Local Government to prescribe fees.
83. Power to make rules.
84. Power to prescribe fees and rules for Native States.
85. Power to declare who shall be District Judge.
86. Power to delegate functions under this Act of Governor General in Council.
87. Saving of Consular marriages.
88. Non-validation of marriages within prohibited degrees.

SCHEDULE I.—NOTICE OF MARRIAGE.
SCHEDULE II.—CERTIFICATE OF RECEIPT OF NOTICE.
SCHEDULE III.—FORM OF REGISTER OF MARRIAGES.
SCHEDULE IV.—MARRIAGE REGISTER-BOOK.
CERTIFICATE OF MARRIAGE.
SCHEDULE V.—ENACTMENTS REPEALED.

ACT No. XV of 1872.

Passed by the Governor General of India in Council.

(*Received the assent of the Governor General on the* 18*th July* 1872).

An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.

WHEREAS it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion; It is hereby enacted as follows :— Preamble.

Preliminary.

1. This Act may be called "The Indian Christian Marriage Act, 1872:" Short title.

It extends to the whole of British India, and, so far only as regards Christian subjects of Her Majesty, to the territories of Native Princes and States in alliance with Her Majesty; Extent.

and it shall come into force on the passing thereof. Commencement.

2. The enactments specified in the fifth schedule hereto annexed are repealed, but not so as to invalidate any marriage confirmed by, or solemnized under, any such enactment. Enactments repealed.

And all appointments made, licenses granted, consents given, certificates issued, and other things duly done under any such enactment shall be deemed to be respectively made, granted, given, issued and done under this Act.

For clause xxiv of section nineteen of the Court Fees Act, 1870, the following shall be substituted:—

'xxiv. Petitions under the Indian Christian Marriage Act, 1872, sections forty-five and forty-eight.'

3. In

Interpretation-clause.

3. In this Act, unless there is something repugnant in the subject or context—

"Church of England." "Anglican."

"Church of England" and "Anglican" mean and apply to the Church of England as by law established;

"Church of Scotland."

"Church of Scotland" means the Church of Scotland as by law established;

"Church of Rome." "Roman Catholic."

"Church of Rome" and "Roman Catholic" mean and apply to the Church which regards the Pope of Rome as its spiritual head;

"Church."

"Church" includes any chapel or other building generally used for public Christian worship;

"Minor."

"Minor" means a person who has not completed the age of twenty-one years, and who is not a widower or a widow;

"Native State."

"Native State" means the territories of any Native Prince or State in alliance with Her Majesty;

"Christians."

The expression "Christians" means persons professing the Christian religion;

"Native Christians."

And the expression "Native Christians" includes the Christian descendants of Natives of India converted to Christianity, as well as such converts.

PART I.

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED.

Marriages to be solemnized according to Act.

4. Every marriage between persons, one or both of whom is a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Persons by whom marriages may be solemnized.

5. Marriages may be solemnized in India—

(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;

(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to

to the rules, rites, ceremonies and customs of the Church of Scotland;

(3) by any Minister of Religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

Grant and revocation of licenses to solemnize marriages.

6. The Local Government may grant licenses to Ministers of Religion to solemnize marriages within the territories under its administration, and may revoke such licenses.

Marriage Registrars.

7. The Local Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any district subject to its administration.

Senior Marriage Registrar.

Where there are more Marriage Registrars than one in any district, the Local Government shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be Marriage Registrar.

When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the District shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

Marriage Registrars in Native States.

8. The Governor General in Council may, by notification in the *Gazette of India*, appoint any Christian, either by name or as holding any office for the time being, to be a Marriage Registrar in respect of any district or place within the territories of any Native Prince or State in alliance with Her Majesty.

The Governor General in Council may, by like notification, revoke any such appointment.

Licensing of persons to grant certificates of marriage between Native Christians.

9. The Local Government or (so far as regards any Native State) the Governor General in Council may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him

him to grant certificates of marriage between Native Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the official Gazette.

PART II.

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED.

Time for solemnizing marriage.

10. Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening :

Exceptions.

Provided that nothing in this section shall apply to—

(1)—a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or

(2)—a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license.

Place for solemnizing marriage.

11. No Clergyman of the Church of England shall solemnize a marriage in any place other than a church,

unless there is no church within five miles distance by the shortest road from such place, or

unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

Fee for special license.

For such special license, the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III.

PART III.

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT.

12. Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act— Notice of intended marriage.

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein

(a) the name and surname, and the profession or condition, of each of the persons intending marriage,

(b) the dwelling-place of each of them,

(c) the time during which each has dwelt there, and

(d) the church or private dwelling in which the marriage is to be solemnized :

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

13. If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church. Publication of such notice.

But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid. Return or transfer of notice.

14. If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in section twelve, shall forward it to the Marriage Registrar of the District, who shall affix the same to some conspicuous place in his own office. Notice of intended marriage in private dwelling.

15. When

Sending copy of notice to Marriage Registrar when one party is a minor.

15. When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of section thirteen, send by the post or otherwise a copy of such notice to the Marriage Registrar of the District, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

Procedure on receipt of notice.

16. The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

Issue of certificate of notice given and declaration made.

17. Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made:

Proviso.

Provided—

(1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister;

(2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and

(3) that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf.

Declaration before issue of certificate.

18. The certificate mentiond in section seventeen shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

(a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage,

and,

and, when either or both of the parties is or are a minor or minors,

(b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in India having authority to give such consent, as the case may be.

Consent of father, or guardian, or mother.

19. The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage,

and such consent is hereby required for the same marriage, unless no person authorized to give such consent be resident in India.

Power to prohibit by notice issue of certificate.

20. Every person whose consent to a marriage is required under section nineteen, is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorized with his or her name and place of abode and position with respect to either of the persons intending marriage, by reason of which he or she is so authorized as aforesaid.

Procedure on receipt of notice.

21. If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

Issue of certificate in case of minority.

22. When either of the persons intending marriage is a minor, and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by section nineteen has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

Issue of certificates to Native Christians.

23. When any Native Christian about to be married takes a notice of marriage to a Minister of Religion, or applies for a certificate from such Minister

under

under section seventeen, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated the notice or certificate to such Native Christian into some language which he understands.

Form of certificate.

24. The certificate to be issued by such Minister shall be in the form contained in the second schedule hereto annexed, or to the like effect.

Solemnization of marriage.

25. After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

Certificate void if marriage not solemnized within two months.

26. Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void,

and no person shall proceed to solemnize the said marriage until new notice has been given and a certificate thereof issued in manner aforesaid.

PART IV.

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION.

Marriages when to be registered.

27. All marriages hereafter solemnized in India between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V or Part VI of this Act, shall be registered in manner hereinafter prescribed.

Registration of marriages solemnized by Clergymen of Church of England.

28. Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

Quarterly returns to Archdeaconry.

29. Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the

the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Contents of returns.

Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year, respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The said Registrar upon receiving the said returns shall send one copy thereof to the Secretary to the Local Government.

Registration and returns of marriages solemnized by Clergymen of Church of Rome.

30. Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the Secretary to the Local Government returns of the entries of all marriages registered by him during the three months next preceding.

Registration and returns of marriages solemnized by Clergymen of Church of Scotland.

31. Every Clergyman of the Church of Scotland shall keep a register of marriages,

and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the Secretary to the Local Government, through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in section twenty-nine, of all such marriages.

Certain marriages to be registered in duplicate.

32. Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall

immediately

immediately after the solemnization thereof, be registered in duplicate by the person solemnizing the same; (that is to say) in a marriage-register-book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

Entries of such marriages to be signed and attested.

33. The entry of such marriage in both the certificate and marriage-register-book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

Certificate to be forwarded to Marriage Registrar, copied, and sent to Government.

34. The person solemnizing the marriage shall forthwith separate the certificate from the marriage-register-book and send it, within one month from the time of the solemnization, to the Marriage Registrar of the District in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the Secretary to the Local Government.

Copies of certificates to be entered and numbered.

35. Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book, according to the order in which he receives each certificate.

Registrar to add number of entry to certificate, and send to Government.

36. The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book to the certificate, with his signature or initials,

initials, and shall, at the end of every month, send the same to the Secretary to the Local Government.

Registration of marriages between Native Christians under Part I or III.

37. When any marriage between Native Christians is solemnized under Part I or Part III of this Act, the person solemnizing the same shall, instead of proceeding in the manner provided by sections twenty-eight to thirty-six, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or, if he leave the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Custody and disposal of register-book.

Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the District, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the Secretary to the Local Government, to be kept by him with the records of his office.

PART V.

Marriages solemnized by, or in the Presence of, a Marriage Registrar.

Notice of intended marriage before Marriage Registrar.

38. When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the District within which the parties have dwelt,

or, if the parties dwell in different districts, shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized:

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be

be stated therein that he or she has dwelt there one month and upwards.

Publication of notice.

39. Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty-four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

Notice to be filed and copy entered in Marriage Notice Book.

40. The Marriage Registrar shall file all such notices and keep them with the records of his office,

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the Local Government, and to be called the "Marriage Notice Book";

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

Certificate of notice given and oath made.

41. If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made:

Proviso.

Provided—

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act;

that four days after the receipt of the notice have expired, and further,

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

42. The

42. The certificate mentioned in section forty-one shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath

Oath before issue of certificate.

(a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and

(b) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar,

and, where either or each of the parties is a minor,

(c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in India authorized to give such consent, as the case may be.

43. When one of the parties intending marriage is a minor, and both such parties are at the time resident in any of the towns of Calcutta, Madras and Bombay, and are desirous of being married in less than fourteen days after the entry of such notice as aforesaid, they may apply by petition to a Judge of the High Court, for an order upon the Marriage Registrar to whom the notice of marriage has been given, directing him to issue his certificate before the expiration of the said fourteen days required by section forty-one.

Petition to High Court to order certificate in less than fourteen days.

And on sufficient cause being shown, the said Judge may, in his discretion, make an order upon such Marriage Registrar, directing him to issue his certificate at any time to be mentioned in the said order before the expiration of the fourteen days so required.

Order on petition.

And the said Marriage Registrar, on receipt of the said order, shall issue his certificate in accordance therewith.

44. The provisions of section nineteen apply to every marriage under this Part, either of the parties to which is a minor;

Consent of father or guardian.

and

Protest against issue of certificate.

and any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "forbidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

Effect of protest.

When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

Petition where person whose consent is necessary is insane, or unjustly withholds consent.

45. If any person whose consent is necessary to any marriage under this Part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage,

the parties intending marriage may apply by petition, where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then to the District Judge:

Procedure on petition.

And the said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way:

And if upon examination such marriage appears proper, such Judge of the High Court or District Judge, as the case may be, shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage;

and if he has forbidden the issue of the Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in

in relation to the marriage as if the issue of such certificate had not been forbidden.

46. Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition, where the district of such Registrar is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then to the District Judge:

Petition when Marriage Registrar refuses certificate.

The said Judge of the High Court, or District Judge, as the case may be, may examine the allegations of the petition in a summary way, and shall decide thereon:

Procedure on petition.

The decision of such Judge of the High Court or District Judge, as the case may be, shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

47. Whenever a Marriage Registrar resident in any Native State refuses to issue his certificate, either of the parties intending marriage may apply by petition to the Governor General in Council, who shall decide thereon.

Petition when Marriage Registrar in Native State refuses certificate.

Such decision shall be final, and the Marriage Registrar to whom the application was originally made shall proceed in accordance therewith.

48. Whenever a Marriage Registrar, acting under the provisions of section forty-four, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, where his district is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district be not within any of the said towns, then to the District Judge:

Petition when Registrar doubts authority of person forbidding.

The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

Procedure on petition.

and the said Judge of the High Court or District Judge, as the case may be, shall examine into the allegations

allegations of the petition and the circumstances of the case,

and if, upon such examination, it appears that the person forbidding the issue of such certificate is not authorized by law so to do, such Judge of the High Court or District Judge, as the case may be, shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

Reference when Marriage Registrar in Native State doubts authority of person forbidding.

Whenever a Marriage Registrar appointed under section eight to act within any Native State is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall send a statement of all the circumstances of the case, together with all documents relating thereto, to the Governor General in Council.

Procedure on reference.

If it appears to the Governor General in Council that the person forbidding the issue of such certificate is not authorized by law so to do, the Governor General in Council shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage, as if the issue of the certificate had not been forbidden.

Liability for frivolous protest against issue of certificate.

49. Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate, on grounds which such Marriage Registrar, under section forty-four, or a Judge of the High Court or the District Judge, under section forty-five or forty-six, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages, to be recovered by suit by the person against whose marriage such protest was entered.

50. The

50. The certificate to be issued by the Marriage Registrar under the provisions of section forty-one shall be in the form contained in the second schedule to this Act annexed or to the like effect, Form of certificate.

and the Local Government shall furnish to every Marriage Registrar a sufficient number of forms of certificate.

51. After the issue of the certificate of the Marriage Registrar, Solemnization of marriage after issue of certificate.

or, where notice is required to be given under this Act to the Marriage Registrars for different districts, after the issue of the certificates of the Marriage Registrars for such districts,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect—

"I do solemnly declare that I know not of any lawful impediment why I, *A. B.*, may not be joined in matrimony to *C. D.*"

And each of the parties shall say to the other as follows or to the like effect—" I call upon these persons here present to witness that I, *A. B.*, do take thee, *C. D.*, to be my lawful wedded wife [*or* husband]."

52. Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section forty, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void; When marriage not had within two months after notice, new notice required.

and

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

Marriage Registrar may ask for particulars to be registered.

53. A Marriage Registrar before whom any marriage is solemnized under this Part may ask of the persons to be married the several particulars required to be registered touching such marriage.

Registration of marriages solemnized under Part V.

54. After the solemnization of any marriage under this Part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate; that is to say, in a marriage-register-book, according to the form of the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

The entry of such marriage in both the certificate and the marriage-register-book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the Marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

Certificates to be sent monthly to Secretary to Government.

55. The Marriage Registrar shall forthwith separate the certificate from the marriage-register-book and send it, at the end of every month, to the Secretary to the Local Government.

Custody of register-book.

The Marriage Registrar shall keep safely the said register-book until it is filled, and shall then send it to the Secretary to the Local Government, to be kept by him with the records of his office.

Officers to whom Registrars in Native States shall send certificates.

56. The Marriage Registrars in Native States shall send the certificates mentioned in section fifty-four to such officers as the Governor General in Council

cil from time to time, by notification in the *Gazette of India*, appoints in this behalf.

Registrars to ascertain that notice and certificate are understood by Native Christians.

57. When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such Native Christian into a language which he understands;

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

Native Christians to be made to understand declarations.

58. When any Native Christian is married under the provisions of this Part, the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such Native Christian, into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Act.

Registration of marriages between Native Christians.

59. The registration of marriages between Native Christians under this Part shall be made in conformity with the rules laid down in section thirty-seven (so far as they are applicable), and not otherwise.

PART VI.

Marriage of Native Christians.

On what conditions marriages of Native Christians may be certified.

60. Every marriage between Native Christians applying for a certificate, shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and not otherwise:—

(1.) The age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years:

(2.) Neither of the persons intending to be married shall have a wife or husband still living:

(3). In

(3.) In the presence of a person licensed under section nine, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

"I call upon these persons here present to witness that I, *A. B.*, in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, *C. D.*, to be my lawful wedded wife [*or* husband]" or words to the like effect:

Provided that no marriage shall be certified under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section nineteen has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

Grant of certificate.

61. When, in respect to any marriage solemnized under this Part, the conditions prescribed in section sixty have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

Register-book to be kept.

62. A register-book of all marriages of which certificates are granted under section sixty-one, shall be kept by the person granting such certificates, in his own vernacular language.

Such register-book shall be kept according to such form as the Local Government from time to time prescribes in this behalf, and true extracts therefrom, duly authenticated, shall be deposited at such places as the Local Government directs.

Searches in register-book and copies of entries.

63. Every person licensed under this Act to grant certificates of marriage, and keeping a marriage-register-book under section sixty-two, shall, at all reasonable times, allow search to be made in such book, and shall,

shall, on payment of the proper fee, give a copy, certified under his hand, of any entry therein.

64. The provisions of sections sixty-two and sixty-three, as to the form of the register-book, depositing extracts therefrom, allowing searches thereof, and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under section thirty-seven.

Books in which marriages of Native Christians under Part I or Part III are registered.

65. This Part of this Act, except so much of sections sixty-two and sixty-three as are referred to in section sixty-four, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V of Act No. XXV of 1864, previous to the twenty-third day of February 1865.

Part VI not to apply to Roman Catholics.

Saving of certain marriages.

PART VII.

PENALTIES.

66. Whoever, for the purpose of procuring any marriage, intentionally makes any false oath or signs any false notice or certificate required by this Act, shall be deemed guilty of the offence described in section one hundred and ninety-three of the Indian Penal Code.

False oath, notice or certificate for procuring marriage;

67. Whoever forbids the issue, by a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section two hundred and five of the Indian Penal Code.

Forbidding, by false personation, issue of certificate by Marriage Registrar;

68. Whoever, not being authorized under this Act to solemnize a marriage in the absence of a Marriage Registrar of the District in which such marriage is solemnized, knowingly solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, or (in lieu of a sentence of imprisonment

Solemnizing marriage without due authority;

imprisonment for seven years or upwards) with transportation for a term of not less than seven years, and not exceeding ten years,

or, if the offender be an European or American, with penal servitude according to the provisions of Act No. XXIV of 1855 *(to substitute penal servitude for the punishment of transportation in respect of European and American convicts, and to amend the law relating to the removal of such convicts)*,

and shall also be liable to fine.

Solemnizing marriage out of proper time, or without witnesses;

69. Whoever knowingly and wilfully solemnizes a marriage between persons, one or both, of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Saving of marriages solemnized under special license;

This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section ten.

Solemnizing, without notice or within fourteen days after notice, marriage with minor;

70. Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or, when one of the parties to the marriage is a minor and the required consent of the parents or guardians to such marriage has not been obtained, within fourteen days after the receipt by him of notice of such marriage, knowingly and wilfully solemnizes a marriage under Part III, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Issuing certificate, or marrying, without publication of notice;

71. A Marriage Registrar under this Act, who commits any of the following offences :—

(1) knowingly and wilfully issues any certificate for marriage, or solemnizes any marriage, without publishing

lishing the notice of such marriage as directed by this Act;

(2) after the expiration of two months from the issue by him of a certificate in respect of any marriage, solemnizes such marriage; *marrying after expiry of certificate;*

(3) solemnizes, without an order of a competent Court authorizing him to do so, any marriage, when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Senior Marriage Registrar of the District if there be more Marriage Registrars of the District than one, and if he himself be not the Senior Marriage Registrar; *solemnizing marriage with minor within fourteen days, without authority of Court, or without sending copy of notice;*

(4) issues any certificate the issue of which has been prohibited, as in this Act provided, by any person authorized to prohibit the issue thereof, *issuing certificate against authorized prohibition;*

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

72. Any Marriage Registrar knowingly and wilfully issuing any certificate for marriage after the expiration of three months after the notice has been entered by him as aforesaid, *Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition;*

or knowingly and wilfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section one hundred and sixty-six of the Indian Penal Code.

73. Whoever, being authorized under this Act to solemnize a marriage, *Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland or Rome)*

and not being a Clergyman of the Church of England solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop

Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies and customs of that church,

issuing certificate, or marrying, without publishing notice, or after expiry of certificate;

knowingly and wilfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III of this Act, or after the expiration of two months after the certificate has been issued by him;

issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice;

or knowingly and wilfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the District;

issuing certificate authorizedly forbidden;

or knowingly and wilfully issues any certificate the issue of which has been forbidden, under this Act, by any person authorized to forbid the issue;

solemnizing marriage authorizedly forbidden;

or knowingly and wilfully solemnizes any marriage forbidden by any person authorized to forbid the same,

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

Unlicensed person granting certificate pretending to be licensed.

74. Whoever, not being licensed to grant a certificate of marriage under Part VI of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

Destroying or falsifying register-books.

75. Whoever, by himself or another, wilfully destroys or injures any register-book or the counterfoil

foil certificates thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register-book or counterfoil certificates,

or wilfully inserts any false entry in any such register-book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

BENGAL SECRETARIAT LIBRARY.

Limitation of prosecutions under Act.

76. The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

PART VIII.

MISCELLANEOUS.

What matters need not be proved in respect of marriage in accordance with Act.

77. Whenever any marriage has been solemnized in accordance with the provisions of sections four and five, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:—

(1.)—Any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law:

(2.)—The notice of the marriage:

(3.)—The certificate or translation thereof:

(4.)—The time and place at which the marriage has been solemnized:

(5.)—The registration of the marriage.

Corrections of errors.

78. Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the

the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And, in case such certificate has been already sent to the Secretary to the Local Government, such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

Searches and copies of entries.

79. Every person solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or Secretary to a Local Government having the custody for the time being of any register of marriages, or of any certificate, or duplicate, or copies of certificate under this Act,

shall, on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate, or duplicate or copies, and give a copy under his hand of any entry in the same.

Certified copy of entry in marriage-register, &c, to be evidence

80 Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage-register or certificate, or duplicate, required to be kept or delivered under this Act, of any entry of a marriage in such register or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate, or duplicate, or of any entry therein, respectively, or of such copy.

Sending certificates of certain marriages to Secretary of State for India.

81. The Secretary to the Local Government and the officers appointed under section fifty-six shall, at the end of every quarter in each year, select from the certificates of marriages forwarded to them respectively during such quarter, the certificates of the marriages of which the Governor General in Council may desire that evidence shall be transmitted to England,

and

and shall send the same certificates, signed by them respectively, to the Secretary to the Government of India in the Home Department, for the purpose of being forwarded to the Secretary of State for India and delivered to the Registrar General of Births, Deaths and Marriages:

Provided that, in the case of the Governments of Madras and Bombay, the said certificates shall be forwarded by such Governments respectively directly to the Secretary of State for India.

Local Government to prescribe fees.

82. Fees shall be chargeable under this Act for—

receiving and publishing notices of marriages;

issuing certificates of marriage by Marriage Registrars, and registering marriages by the same;

entering protests against, or prohibitions of, the issue of marriage certificates by the said Registrars;

searching register-books or certificates, or duplicates, or copies thereof;

giving copies of entries in the same under sections sixty-three and seventy-nine.

The Local Government shall fix the amount of such fees respectively,

and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

Power to make rules.

83. The Local Government may make rules in regard to the disposal of the fees mentioned in section eighty-two, the supply of register-books, and the preparation and submission of returns of marriages solemnized under this Act.

Power to prescribe fees and rules for Native States.

84. The powers conferred on the Local Government by sections eighty-two and eighty-three may, so far as regards Native States, be exercised by the Governor General in Council.

Power to declare who shall be District Judge.

85. The Local Government may, by notification in the official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

86. The

Power to delegate functions under this Act of Governor General in Council.

86. The powers and functions given by this Act to the Governor General in Council may be delegated to and exercised by such officers as the Governor General in Council from time to time appoints in this behalf.

And all such powers and functions may be exercised, as regards Native States situate within the local limits of the Presidencies of Fort Saint George and Bombay, by the Governors in Council of those Presidencies respectively.

Saving of Consular marriages.

87. Nothing in this Act applies to any marriage performed by any Minister, Consul, or Consular Agent between subjects of the State which he represents and according to the laws of such State.

Non-validation of marriages within prohibited degrees.

88. Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

SCHEDULE I.

SCHEDULE I.

(See sections 12 *and* 38*).*

Notice of Marriage.

To a Minister [*or* Registrar] of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date hereof, between me and the other party hereinnamed and described, (that is to say) :—

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence.	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	16, *Clive Street.*	23 *days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	20, *Hastings' Street.*	*More than a month.*		

Witness my hand, this day of *seventy-two.*

(*Signed*) *JAMES SMITH.*

[The *italics* in this schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II.

SCHEDULE II.

(See sections 24 and 50).

CERTIFICATE OF RECEIPT OF NOTICE.

I,
do hereby certify that, on the day of , notice was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of ,
one of the parties, (that is to say) :—

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence.	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
James Smith.	*Widower.*	*Carpenter.*	*Of full age.*	*16, Clive Street.*	*23 days.*	*Free Church of Scotland Church, Calcutta.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a month.*		

and that the declaration required by section seventeen or forty-one of "The Indian Christian Marriage Act, 1872," has been duly made by the said (*James Smith*).

Date of notice entered
Date of certificate given } The issue of this certificate has not been prohibited by any person authorized to forbid the issue thereof.

Witness my hand, this day of *seventy-two.*

(*Signed*)

This certificate will be void, unless the marriage is solemnized on or before the day of

[The *italics* in the schedule are to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE III.

SCHEDULE III.

(See section 28).

FORM OF REGISTER OF MARRIAGES.

Quarterly Returns

of

MARRIAGES

for

The Archdeaconry of ... { *Calcutta.* / *Madras.* / *Bombay.*

I, ————, Registrar of the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } do hereby certify that the annexed are correct copies of the originals and Official Quarterly Returns of Marriage within the Archdeaconry of { *Calcutta,* / *Madras,* / *Bombay,* } as made and transmitted to me for the quarter commencing the day of ending the day of in the year of Our Lord

[*Signature of Registrar.*]

Registrar of the Archdeaconry of { *Calcutta.* / *Madras.* / *Bombay.*

MARRIAGES solemnized at { *Allahabad,* / *Barrackpore,* / *Bareilly,* / *Calcutta, &c., &c.*

When married.			Names of parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.	By banns or license.	Signatures of the parties.	Signatures of two or more witnesses present.	Signature of the person solemnizing the marriage.
Year.	Month.	Day.	Christian.	Surname.									

SCHEDULE IV.

SCHEDULE IV.

(See sections 32 and 54).

MARRIAGE REGISTER BOOK.

Number.	When married.			Names of Parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian name.	Surname.					
1				*James* ...	*White* ...	26 *years* ...	*Widower* ...	*Carpenter*..	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	17 *years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Married in the

This marriage was solemnized between us { *James White,* / *Martha Duncan,* } in the presence of us { *John Smith,* / *John Green.* }

CERTIFICATE OF MARRIAGE.

Number.	When married.			Names of parties.		Age.	Condition.	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
	Day.	Month.	Year.	Christian name.	Surname.					
1	—	—	—	*James* ...	*White* ...	26 *years* ...	*Widower* ...	*Carpenter*...	*Agra* ...	*William White.*
				Martha ...	*Duncan* ...	17 *years* ...	*Spinster* ...	.....	*Agra* ...	*John Duncan.*

Married in the

This marriage was solemnized between us { *James White,* / *Martha Duncan,* } in the presence of us { *John Smith,* / *John Green.* }

SCHEDULE V.

(*See section* 2).

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
Statute 58 Geo. 3, cap. 84.	An Act to remove Doubts as to the Validity of certain marriages had and solemnized within the British territories in India.	The whole.
Statute 14 & 15 Vic., cap. 40.	An Act for Marriages in India ...	The whole.
Act No. V of 1852	An Act for giving effect to the provisions of an Act of Parliament, passed in the 15th year of the reign of Her present Majesty, entituled "An Act for Marriages in India."	So much as has not been repealed.
Act No. V of 1865	The Indian Marriage Act, 1865 ..	The whole Act, except so far as it relates to the Straits Settlements.
Act No. XXII of 1866.	An Act to extend the Indian Marriage Act, 1865, to the Hyderabad Assigned Districts and the cantonments of Secunderabad, Trimungerry and Aurungabad.	The whole.

Office Supdt. Govt Printing.—No. 154 L D—21-8-72.—3,500.

ACT No. XVI OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st August 1872).

An Act for imposing a duty on certain spirits manufactured in British Burma.

FOR the purpose of imposing a duty on spirits manufactured at distilleries in British Burma worked according to the English method; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Burma Spirit Duty Act, 1872:" Short title.

It extends only to British Burma: Local extent.

It shall come into force on the passing thereof; Commencement.

And it shall be taken as part of the Excise Act, 1871. Act to be read as part of Excise Act, 1871.

2. A duty shall be levied on spirits manufactured at distilleries in British Burma worked according to the English method, at such rate per imperial gallon of the strength of London proof, not exceeding the highest rate of duty for the time being leviable in any other part of British India on similar spirits, as the Local Government, with the previous sanction of the Governor General in Council, from time to time notifies in the local official Gazette. Duty on English spirits manufactured in Burma.

The duty leviable under this section shall be augmented or reduced in proportion to the strength of the spirits on which it is levied.

3. The provisions of the second and third clauses of section twenty-one of the Excise Act, 1871, shall apply to such spirits, as if, for the words "aforesaid duty," the words "duty leviable under the Burma Spirit Duty Act, 1872," were substituted. Excise Act, 1871, section 21, clauses 2 and 3, to apply to such spirits.

4. All

[*Price one anna and three pies.*]

Legalization of prior levy of duties.

4. All duties heretofore levied on such spirits shall be deemed to have been levied in accordance with law, and no suit or other proceeding shall be maintained against any officer or other person in respect of any such levy.

Office Supdt. Govt. Printing.—No. 159 L. D.—28-8-72.—3,000.

ACT No. XVII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th August 1872).

An Act for postponing the day on which the Code of Criminal Procedure is to come into force.

WHEREAS the Code of Criminal Procedure (Act No. X of 1872), section one, enacts that the said Code shall come into force on the first day of September 1872: And whereas it is expedient to postpone the day on which such Code shall come into force; It is hereby enacted as follows:— Preamble.

1. The said Act No. X of 1872 shall come into force, not on the first day of September 1872, but on the first day of January 1873. Criminal Procedure Code to take effect on 1st January 1873.

[*Price one anna.*]

Office Supdt. Govt Printing.—No. 163 L. D —28-8-72.—3,000.

ACT No. XVIII of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th August 1872).

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient to amend the Indian Evidence Act, 1872; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Indian Evidence Act Amendment Act"; Short title.

And it shall come into force on the passing thereof. Commencement.

2. In section thirty-two of the Indian Evidence Act, 1872, clauses five and six, after the word "relationship," the words "by blood, marriage or adoption" shall be inserted. Amendment of Act I of 1872, section 32, clauses 5 and 6.

3. In section forty-one of the same Act, lines seventeen, twenty and twenty-three, after the word "judgment," the words "order or decree" shall be inserted. Amendment of section 41.

4. In section forty-five of the same Act, line five, after the word "art," the words "or in questions as to identity of handwriting" shall be inserted. Amendment of section 45.

5. In section fifty-seven of the same Act, paragraph (13), after the word "road," the words "on land or at sea" shall be inserted. Amendment of section 57.

6. In section sixty-six of the same Act, line five, after the word "is," the words "or to his attorney or pleader" shall be inserted. Amendment of section 66.

7. In section ninety-one of the same Act, Exception 2, for the words "under the Indian Succession Act," the words "admitted to probate in British India" shall be substituted. Amendment of section 91.

8. In

[*Price one anna and three pies.*]

Amendment of section 92.

8. In section ninety-two of the Indian Evidence Act, 1872, proviso (1), for the words "want of failure," the words "want or failure" shall be substituted.

Amendment of section 108.

9. In section one hundred and eight of the same Act, line one, for the word "When," the words "Provided that when" shall be substituted; and, in the last line, for the word "on," the words "shifted to" shall be substituted.

Amendment of sections 126 and 128.

10. In section one hundred and twenty-six of the same Act, line twenty-two, and in section one hundred and twenty-eight of the same Act, line six, after the word "barrister," the word "pleader" shall be inserted.

In section one hundred and twenty-six of the same Act, line fifteen, for the word "criminal," the word "illegal" shall be substituted.

Amendment of section 155.

11. In section one hundred and fifty-five of the same Act, paragraph (2), for the word "had," the word "accepted" shall be substituted.

Saving of Act XV of 1852, section 12.

12. Nothing in the Indian Evidence Act, 1872, shall be deemed to affect Act No. XV of 1852 (*to amend the Law of Evidence*), section twelve.

Office Supdt. Govt. Printing.—No. 168 L. D.—11-9-72.—5,000.

ACT No. XIX OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 29th August* 1872).

An Act to amend the definition of 'Coin' contained in the Indian Penal Code.

WHEREAS it is expedient to amend the definition of 'coin' contained in the Indian Penal Code, section two hundred and thirty; It is hereby enacted as follows:— Preamble.

1. For the first paragraph of the said section, the following shall be substituted: Amendment of section 230, Act XLV of 1860.

"**230.** Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be so used.". 'Coin' defined.

[*Price one anna.*]

Office Supdt. Govt. Printing.—No. 169 L. D.—4-9-72.—3,000.

ACT No. XX OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 5th September 1872).

An Act to amend Act No. V of 1872.

WHEREAS it is expedient to amend Act No. V of 1872 *(to remove doubts as to the jurisdiction of the High Court of Bombay over the Province of Sind)*; It is hereby enacted as follows :— Preamble.

1. The said Act shall be construed as if the following sections were added thereto :— Sections added to Act V of 1872.

"2. Nothing herein contained shall be deemed to affect the Administrator General's Act, 1867. Saving of Act XXIV of 1867.

"3. Nothing herein contained shall be deemed to invalidate the grant of any probate or letters of administration heretofore or hereafter made by the High Court of Judicature at Bombay, or to affect the rights, powers or duties of any executor or administrator under, or by virtue of, any such probate or letters. Saving of probates an administrations.

"4. Nothing herein contained shall be deemed to affect the criminal jurisdiction of the said High Court so far as regards European British subjects of Her Majesty." Saving of High Court's criminal jurisdiction over European British subjects.

[*Price one anna.*]

Office Supdt. of Govt. Printing—No. 170 L. D. 11-9-72.—3,000

ACT No. XXI of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 5th September* 1872).

An Act to facilitate the admission of Native Military Lunatics into Asylums.

WHEREAS it is expedient to facilitate the admission of Native Military Lunatics into Asylums; It is hereby enacted as follows:— Preamble.

1. This Act may be called "The Native Military Lunatics' Act, 1872": Short title.

It extends to the whole of British India and, so far as regards subjects of Her Majesty, to the dominions of Native Princes and States in India in alliance with Her Majesty; Extent.

And it shall come into force on the passing thereof. Commencement.

2. Whenever any Native officer, non-commissioned officer or soldier appears to be insane, the officer commanding the regiment or detachment to which he belongs shall report the case to the general officer commanding the division or district, or force, in which such regiment or detachment is serving. Report of insanity of Native officer or soldier.

3. Such general officer shall thereupon cause the said Native to be examined by a committee composed of at least two medical officers, or (if this be impracticable) by a regimental committee comprising the officer in command of the wing or squadron to which the Native belongs, and the medical officer in charge of the corps or detachment of which such wing or squadron forms part. Examination of Native.

4. If the said committee or regimental committee (as the case may be) are satisfied that the Native is insane, the officer commanding the division or district Order for reception in Asylum.

[*Price one anna and three pies.*]

trict or force, may, if he thinks fit, make an order, under his hand, for the reception of the said Native into a Lunatic Asylum, and shall then send him thither under military escort;

Reception and detention in Asylum.

and the officer in charge of such Asylum shall receive the Native into the Asylum and detain him therein until he is discharged therefrom in accordance with the local military regulations in force for the time being.

Expenses of lunatic.

5. The pay-master of the military circle within which any such Asylum is situate shall pay to the officer in charge of such Asylum the expense of the lodging, maintenance, clothing and medicine of every Native so received and detained.

Legalization of past admissions of Native lunatic officers and soldiers.

6. All Native officers, non-commissioned officers or soldiers heretofore received into Lunatic Asylums shall be deemed to have been so received in accordance with law.

Office Supdt. Govt. Printing—No. 171 L. D.—11-9-72.—3,000.

ACT No. XXII of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the* 13*th September* 1872).

An Act to explain and amend Act No. X of 1859.

Preamble.

WHEREAS it has been the practice for the Local Government or the Collectors of Districts to invest persons not being Deputy Collectors with all or some of the powers of Deputy Collectors for the purposes of Acts No. X of 1859 and No. XIV of 1863:

And whereas it has been the practice for all or some of the Deputy Collectors and of the persons invested as aforesaid to exercise the powers of Deputy Collectors in charge of sub-divisions of districts or of Assistants to Collectors invested by Government with the powers of Deputy Collectors:

And whereas many suits have been preferred and applications made to, and orders made and acts done by, such Deputy Collectors and other persons in the exercise of such powers:

And whereas doubts have been raised as to the legality of such practices and as to the jurisdiction to entertain such suits and applications and to make and do such orders and acts;

For the purpose of precluding such doubts; It is hereby enacted as follows:—

Persons invested with certain powers to be deemed Deputy Collectors in charge of sub-divisions of districts.

1. All Deputy Collectors and all persons heretofore or hereafter so invested with powers shall be deemed to have been or to be (as the case may be) Deputy Collectors in charge of sub-divisions of districts within the meaning of the said Acts No. X of 1859 and No. XIV of 1863, or Assistants to Collectors invested with the powers of Deputy Collectors in such charge.

2. All

[*Price one anna and three pies.*]

Certain suits to be deemed to have been duly preferred.

2. All such suits shall be deemed to have been and to be as duly preferred, and all such applications, orders and acts shall be deemed to have been and to be as duly made and done, as if the said Deputy Collectors and other persons had been Deputy Collectors in charge of sub-divisions of districts within the meaning of the said Acts No. X of 1859 and No. XIV of 1863.

And no order or act heretofore or hereafter made or done as aforesaid by any such person shall be held invalid merely because the suit in which such order was made or act done has not been preferred in the place prescribed by the said Act No. X of 1859, section one hundred and sixty-two.

Power to define areas over which persons exercising powers of Deputy Collectors in charge of sub-divisions shall exercise jurisdiction.

3. The Local Government, or any officers empowered by the Local Government on this behalf, may, from time to time, by order define and adjust the local areas over which the persons exercising the powers of Deputy Collectors in charge of sub-divisions of districts shall exercise their jurisdiction.

Such local areas shall be deemed to be sub-divisions of districts within the meaning of the said Act No. X of 1859.

Interpretation of "Collector."

4. In this Act and Acts Nos. X of 1859 and XIV of 1863, "Collector" includes also a Deputy Commissioner and every person in the chief revenue charge of any district.

Short title.

5. This Act may be called "The Act X of 1859 Amendment Act, 1872":

Local extent.

It extends only to the territories respectively under the government of the Lieutenant-Governor of the North-Western Provinces and under the administration of the Chief Commissioner of the Central Provinces;

Commencement.

And it shall come into force on the passing thereof.

Office Supdt Govt. Printing.—No 173 L D.—20 9-72.—3,000

ACT No. XXIII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th September 1872).

An Act for regulating the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava.

Preamble

WHEREAS it is expedient to provide for the re-importation into British territory of goods cleared at Rangoon for the territory of the King of Ava, under the provisions of Act IV of 1863 (*to give effect to certain provisions of a treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burma*); It is hereby enacted as follows:—

'Political Agent' defined.

1. In this Act,—"Political Agent" denotes any officer appointed by the Governor General in Council to reside as representative of the British Government at Mandalay, Bhámu, or any other town within the territories of the King of Ava;

'Master' defined.

and "Master" includes any person in charge of a Native boat.

Certificate to be obtained before re-importation.

2. Whoever desires to re-import into British territory goods previously exported from Rangoon to the territories of the King of Ava, must obtain from the Political Agent a certificate in the form set forth in the schedule hereto annexed.

Such certificate shall be made out in duplicate: the original shall be handed to the owner or shipper of the goods, and the duplicate shall be forwarded to the Master of the vessel in which the goods are intended to be shipped.

Goods to be delivered to Collector of Customs.

3. All goods protected by such certificate shall be delivered by the Master of the vessel in which they are

[*Price one anna and six pies.*]

are shipped, to the Collector of Customs at Thayetmyo, or Rangoon, or at any other station in British territory on the Irrawaddy, as may be directed in the certificate aforesaid;

and such Collector shall retain the goods until the difference between the duty of one per centum *ad valorem*, and the duty which they would have been liable to pay if cleared for home consumption when originally imported by sea, is paid to him, together with any incidental expenses incurred in removing and storing the same.

Procedure on goods not being cleared.

4. Should no application regarding the said goods be made to the Collector within one week after they have come into his possession, he shall cause an advertisement to be inserted in the local Gazette, notifying that, if the said goods are not cleared within one month from the date of such notice, they will be sold and the proceeds applied, in the first place, to pay all expenses of the sale, and then all dues and charges owing to Government in respect of the said goods.

The surplus (if any) shall be held to the credit of the owner of the said goods.

Penalty on failing to deliver to Collector goods protected by certificate.

5. Any Master of a vessel failing to deliver to the Collector, as provided in section three, any goods protected by a Political Agent's certificate, shall be liable to a penalty not exceeding one thousand rupees.

Such penalty shall be adjudged after a summary proceeding by any Collector of Customs; but his adjudication shall be subject to appeal to the Commissioner of the Division.

Exported goods found in British territory, unprotected by certificate, to be deemed contraband.

6. Any goods cleared for exportation under the said Act for the King of Ava's territory, found within British territory and not protected by a certificate as required by section two, shall be considered contraband, and shall be liable to seizure by an officer of customs, or an officer of police, and to confiscation by any Collector of Customs to whom the goods may be delivered, unless it be proved that the full duty leviable on goods cleared for home consumption has been paid on the said goods.

Nothing

Nothing in this section affects—

(*a*) goods in transit from the Custom House at Rangoon to the vessel on which they are to be laden for export, Saving of certain goods.

(*b*) goods found on board of any vessel on her passage from Rangoon to the King of Ava's territory, and cleared for export under the said Act.

7. This Act shall be read as part of the said Act No. IV of 1863. Construction.

SCHEDULE.

(*See section* 2).

Certificate.

Mr. / *or* / Messrs. } _____ having declared his *or* their intention to re-export from to the under-mentioned goods, originally cleared at Rangoon under Act IV of 1863, I grant permission for the said goods to be shipped on board the steamer/ship _____, and request that the Master will deliver the said goods to the Collector of Customs at

Marks and numbers.	Description of packages.	Number of packages.	Contents of each package.	When imported into

(Signed) *A. B.*,
Political Agent at

Office Supdt. Govt Printing.—No 175 L. D.—1-10-72.—3,000.

ACT No. XXIV OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 25th September* 1872).

An Act to repeal Bombay Regulation XIII of 1827, section thirty-four, clause nine.

WHEREAS it is expedient to render the practice relating to the payment of subsistence-allowances to witnesses in the Courts of Subordinate Magistrates uniform throughout British India: And whereas it is necessary, for that purpose, to repeal Bombay Regulation XIII of 1827 to the extent hereinafter mentioned; It is hereby enacted as follows:— Preamble.

1. Bombay Regulation XIII of 1827 (*for defining the Constitution of Courts of Criminal Justice, and the Functions and Proceedings thereof*), section thirty-four, clause nine, is repealed. Bombay Regulation XIII of 1827, section 34, clause 9, repealed.

[*Price one anna.*]

Office Supdt. Govt Printing —No 176 L D.—1-10-72 —3,000

ACT No. XXV of 1872.

Passed by the Governor General of India in Council.

(*Received the assent of the Governor General on the* 12*th October* 1872).

An Act to give the force of law to certain Rules relating to Salt in the Panjáb.

Preamble.

WHEREAS certain Rules for the realization and protection of the revenue derived from the Salt Mines in the Sind Ságar Doáb and at Kálábágh prepared by the late Board of Administration for the Affairs of the Panjáb were, on the twenty-ninth day of May, 1851, approved by the Governor General, and, under the Indian Councils' Act, 1861, received the force of law: And whereas the said Rules were repealed by the Panjáb Laws' Act, 1872, and such repeal took effect on the first day of June, 1872: And whereas it is expedient, pending the passage of an Act to consolidate and amend the law relating to Inland Customs, to revive and continue such Rules with the modifications hereinafter mentioned; It is hereby enacted as follows:—

Rules to have the force of law.

1. The said Rules shall have, and shall, from the said first day of June, 1872, be deemed to have had, the force of law, subject to the following modifications (that is to say):

(*a*) In Rule 2, for the figure and words "(2) two rupees," the words "three rupees, one anna" shall be substituted;

(*b*) In Rule 3, after the word "Panjáb," the words "that may from time to time be determined by the Local Government" shall be inserted;

(*c*) In Rule 8, for the words "the Jhelum Division," the words "Commissioner of Inland Customs" shall be substituted;

(*d*) In

[*Price one anna and three pies.*]

(*d*) In Rule 17, for the words "Board of Administration," the words "Lieutenant-Governor of the Panjáb" shall be substituted;

(*e*) In Rule 21, for the last twenty words, the following words shall be substituted (that is to say): "alimentary salt illegally manufactured or imported";

(*f*) To Rule 22, the following words shall be added (that is to say): "and may from time to time be altered by like notification";

(*g*) In Rule 24, for the last twenty-eight words, the words "Inland Customs" shall be substituted;

(*h*) In Rule 26, for the words "in charge of the Preventive Line," the words "of the Division" shall be substituted; and for the words "salt is not the produce of the Sind Ságar or Kalabaugh Mines," the words "possession of the salt is prohibited by paragraph 21" shall be substituted;

(*i*) In Rule 30, for the words "but that obtained from the Sind Ságar Mines or from Kalabaugh," the words "the possession of which is prohibited by paragraph 21" shall be substituted.

Office Supdt. Govt Printing.—No. 201 L. D.—21-10-72—3,000

ACT No. XXVI of 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 12th October 1872).

An Act to amend the Law relating to Opium in the Panjáb.

WHEREAS it is expedient to amend the law relating to opium in the Panjáb; It is hereby enacted as follows:—. Preamble.

1. This Act may be called "The Panjáb Opium Law Amendment Act, 1872": Short title.

It extends only to the territories under the government of the Lieutenant-Governor of the Panjáb: Local extent.

And it shall come into force on the first day of January 1873. Commencement.

2. In this Act and in the Panjáb Laws' Act, 1872, 'opium' includes also poppy-heads and all intoxicating drugs prepared from the poppy. 'Opium' defined.

3. Wherever in the said territories an acreage duty is for the time being leviable on the cultivation of the poppy, sections fifteen, nineteen, sixty-two, sixty-five and sixty-six of the Excise Act, 1871, shall have no effect so far as they restrict, directly or indirectly, the sale of opium grown within the said territories, or prohibit the possession or sale of such opium by persons other than licensed vendors. Modification in certain districts of Act X of 1871, sections 15, 19, 62, 65 and 66.

4. In prosecutions under the said sections respectively, it shall be assumed, until the contrary is proved, that the opium in respect of which an offence is alleged to have been committed, has been grown without the said territories. Burden of proof in prosecutions.

5. Whenever

[*Price one anna and three pies.*]

Confiscation of opium

5. Whenever any rule made by the Local Government under the Panjáb Laws' Act, 1872, and relating to the growth, sale or possession of opium, is broken, the opium in respect of which the breach is committed shall be liable to confiscation.

Office Supdt. Govt Printing—No 202 L D—21-10 72—3,000.

ACT No. XXVII OF 1872.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 31st December 1872).

An Act for postponing the day on which the Code of Criminal Procedure is to come into force in the Province of Sindh.

Preamble.

WHEREAS Act No. XVII of 1872 provides that the Code of Criminal Procedure (Act No. X of 1872) shall come into force throughout British India on the first day of January 1873: And whereas the translation of the said Code into the Sindhí language has not been completed, and it is therefore expedient to postpone the day on which the said Code shall come into force in the Province of Sindh; It is hereby enacted as follows:—

Commencement of Code of Criminal Procedure in Sindh.

1. In the Province of Sindh the said Code shall come into force, not on the first day of January 1873, but on the first day of April 1873.

[*Price one anna.*]

Office Supdt. Govt. Printing.—No. 313 L. D.—3 1-73.—3,000.

BENGAL SECRETARIAT LIBRARY.

INDEX

TO THE

ACTS PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

IN THE YEAR 1872.

	Act.	Sec.
ABATEMENT of nuisance	X	525, 526, 528
See *Local nuisance.*		
ABBREVIATIONS, evidence to show meaning of, ...	I	98
ABETMENT may be inquired into and tried either where offence was abetted or where offence abetted was committed ...	X	66, ill. (*a*)
of waging war where triable	"	66, ill. (*d*)
of certain offences may be tried summarily ...	"	222
when not tried summarily, evidence how recorded ...	"	333, 336
of breach of the peace, conviction for, and recognizance to keep the peace	"	489
security	"	490
of suicide; form of charge	"	sch. III
ABODE, oath as to place of, ...	XV	42 (*b*)
of person forbidding certificate	"	44, cl. 2
See *Residence.*		
ABOLITION of courts established by Act XXI of 1863 ...	VII	3
ABSCONDING of accused person; issue of proclamation ...	X	171
record of evidence in his absence	"	327
witness, proclamation for, ...	"	353
ABSENCE of recorder, provision for discharge of duties in case of,	VII	60
of accused; record of evidence when accused absconds...	X	327
of assessor; procedure	"	259
of complainant on an inquiry	"	195
in summons case	"	205
on adjourned summons trial ...	"	208
effect of, in warrant trial	"	215
of juror; procedure	"	234
of officer in charge of police-station; substitute ...	"	136
of marriage registrar, provision in case of, ...	XV	7, cl. 3
of person authorized to consent to marriage ...	"	18 (*b*), 42 (*c*), 60
of persons married, correction of errors how to be made in case of, ...	"	78
ABSOLUTE acceptance	IX	7
when an order under section 521 may be made, ...	X	523, 525, 526
ABSTINENCE when a consideration	IX	2, cl. (*d*)
ACCEPTANCE of proposals how made	IX	3
when completely communicated	"	4
when revocable	"	5
necessary to convert proposal into promise ...	"	7
of consideration for a reciprocal promise offered with a proposal	"	8
of performance of promise from third person ...	"	41
of performance at time not agreed on	"	55
of satisfaction instead of performance of promise ...	"	63

[*Price four rupees and two annas*]

	Act.	Sec.
ACCEPTANCE (*concluded*)		
of proposal for sale	IX	78
ACCEPTED substituted for 'had' in Evidence Act	XVIII	11
ACCEPTING BRIBE; specimen charge	X	sch. III
ACCEPTOR OF BILL estopped from denying drawer's authority ...	I	117
may deny drawing	"	117
ACCESSION of Sovereign of United Kingdom, judicially noticed ...	I	57
to office, &c., of Indian public officer, judicially noticed	"	57
ACCIDENTAL act	I	15
ACCOMPLICE competent witness against person accused ...	I	133
conviction upon evidence of, only, not illegal ...	"	113
pardon of, ...	X	347, 348
withdrawal of pardon of, ...	"	349
ACCOUNT, entries in books of, when relevant	I	34
agent bound to render proper, ...	IX	213
to be rendered to partner or his representatives ...	"	257
of benefit derived by partner from transaction affecting partnership	"	258
ACCOUNTS, statement of result of, ...	VIII	10
officers of companies may be required to produce, ...	"	12
penalty for failure to produce, ...	"	38
rules regarding, may be made by high court ...	X	292
See *Recorder*.		
ACCUSED by certain persons—having been accused by a complainant or by an accused person, &c., of an offence, ground of objection to a juror	X	244
ACCUSED PERSON, bail of, see *Bail*.		
may show that he has been prejudiced by investigation, inquiry or trial being held in wrong district	X	70
not to be induced to confess	"	120
ordinarily, may not see police diary ...	"	126
when may be permitted to appear by agent ...	"	151
when accused cannot be found, mode of serving summons	"	155
right of, to be defended	"	186
his right of cross-examination in inquiries ...	"	191
examination of, on inquiry	"	193
not punishable for refusal to answer ...	"	193
his right to object to juror	"	243
examination of, to be put in at sessions trial ...	"	248
examination of,—duty of court of session ...	"	250
right of, to state his case	"	251
when he may demand that proceedings shall commence afresh	"	328
when commission is issued, power to examine witness	"	330
may require question and answer to be recorded	"	338
when he may require translation of evidence ...	"	339
examination of, ...	"	342—346
not to be sworn	"	345
to receive copy of examination of supplementary witnesses after commitment	"	357
duty of, in non-cognizable summons cases, to bring his witnesses	"	361
before court of session may examine person in attendance	"	363
may not of right call fresh witness ...	"	363
may apply for amendment of charge ...	"	444
on amendment of charge, may re-call witness..	"	449

	Act.	Sec.
ACCUSED PERSON (*concluded*)		
to be furnished with copy of judgment ...	X	464
direction and execution of warrant for arrest of, for offence in native state	XI	12
to be forwarded according to warrant ...	„	12
procedure as to, on requisition for extradition ...	„	14
ACCUSED PERSONS, power to make rules as to removal, control and maintenance of, ...	XI	15 (2)
ACKNOWLEDGMENT of receipt	I	32, par. (2)
of buyer's ownership	IX	87, ill. (*a*)
ACQUAINTANCE with handwriting	I	47
ACQUIESCENCE in continuance of contract	IX	39
ACQUITTAL of accused on withdrawal of charge by public prosecutor during trial	X	61
compounding offence equivalent to, ...	„	188
in summons cases	„	211
dismissal of summons case equivalent to, ...	„	212
on trial of warrant case	„	220
when court of session may enter up finding or direct jury to return verdict of, ...	„	251
in cases tried by court of session with assessors ...	„	261
in cases tried by jury	„	263
by lower or appellate court, appeal against, ...	„	272
by high court on reference	„	288, 289
previous, how proved	„	326
on ground of insanity, judgment to state whether accused did act charged	„	429
if act was committed, custody of person so acquitted ...	„	430
previous, when a bar to subsequent trial	„	460
finding of, to direct accused to be set at liberty ...	„	464
ACT XIII of 1840 repealed	IX	1 & sch.
XIV of 1840 repealed	IX	1 & sch.
V of 1841, regulation in force in Panjáb so far as not modified by, ...	IV	sch. I, col. 3
repealed	X	2 & sch. I
XV of 1843, sections 3, 4, 5 and 6 repealed	X	2 & sch. I
XX of 1844 repealed	IX	1 & sch.
XV of 1845 repealed	X	2 & sch. I
XXIX of 1845 repealed	X	2 & sch. I
VI of 1846 repealed	IV	4 & sch. II
I of 1847 repealed so far as it affects Panjáb	IV	4 & sch. II
XXI of 1848 repealed	IX	1 & sch.
I of 1849 repealed	XI	2 & sch. I
V of 1852 repealed	XV	2 & sch. V
XV of 1852 repealed	I	2 & sch.
saving of section 12 of, ...	XVIII	12
VII of 1853 repealed	X	2 & sch. I
XIX of 1853, section 19 repealed	I	2 & sch.
VII of 1854 repealed	XI	2 & sch. I
X of 1854 repealed	X	2 & sch. I
II of 1855 repealed	I	2 & sch.
XXIV of 1855, certain offenders punishable with penal servitude according to provisions of, ...	XV	68, cl. 2
XX of 1856, section 58 repealed	X	2 & sch. I
XL of 1858 in force in Panjáb	IV	3 & sch. I
VIII of 1859, sections 372-74, repealed so far as they relate to British Burma	VII	5 & sch.
X of 1859 Amendment Act, 1872	XXII	
investment of persons with certain powers for purposes of, ...	„	pream., par. 1

	Act.	Sec.
Act (*continued*)		
X of 1859, persons invested with certain powers to be deemed deputy collectors within meaning of, ...	XXII	1
certain suits, applications, &c., to be deemed to have been preferred as if the persons who heard them had been deputy collectors under, ...	"	2
orders and acts not invalid because not made or done in place prescribed by, ...	"	2, para. 2
sub-divisions within meaning of, ...	"	3, para. 2
what included in "Collector" in, ...	"	4
XV of 1859 amended	XIII	
Act to be read with, ...	"	5
XXIV of 1859, section 48 saved	X	529
XXV of 1859, saving of, ...	XII	6
XLV of 1860, see *Penal code.*		
V of 1861, section 34 saved	X	529
XVII of 1861 in force in Panjáb	IV	3 & sch. I
XXIII of 1861, sections 23, 25, and 27 to 34 repealed so far as they relate to British Burma ...	VII	5 & sch.
XXV of 1861 section 237 repealed	I	2 & sch.
repealed	X	2 & sch. I
XVII of 1862 repealed	X	2 & sch. I
I of 1863 repealed	VII	5 & sch.
IV of 1863, Act to be read as part of, ...	XXIII	7
See *British territory, Exportation, Re-importation.*		
XIV of 1863, see *Act X of* 1859.		
XXI of 1863, abolition of certain courts established under, ...	VII	3
repealed	"	5 & sch.
rules made under, to be in force till superseded	"	65, cl. 2
XXIV of 1863 repealed	VII	5 & sch.
VI of 1864, sections 8, 11 and 12 repealed	X	2 & sch. I
XXV of 1864, saving of certain marriages under, ...	XV	65
V of 1865 repealed except as to straits settlements ...	XV	2 & sch. V
XI of 1865, section 7, exercise by chief commissioner of powers conferred on local government by, ...	VII	18
XX of 1865, right of accused to be defended by pleader qualified under, ...	X	186
III of 1866 repealed	VII	5 & sch.
rules made under, to be in force till superseded...	"	65, cl. 2
V of 1866, sections 9 and 10 repealed	IX	1 & sch.
XV of 1866 repealed	IX	1 & sch.
XXII of 1866 repealed	XV	2 & sch. V
VII of 1867 (Bombay), section 40 repealed	X	2 & sch. I
VIII of 1867 (Bombay), section 16 saved	X	529
VIII of 1867 (India) repealed	IX	1 & sch.
XV of 1867, Act to revive and continue operation of, ...	II	
XXIV of 1867, see *Administrator general's act.*		
XXVIII of 1867 repealed	X	2 & sch. I
XXXVI of 1867 repealed	X	2 & sch. I
IV of 1869, see *Divorce act.*		
VIII of 1869 repealed	X	2 & sch. I
I of 1868, sections 7 and 8 repealed	I	2 & sch.
XV of 1869, amendment of section 7 of, ...	VII	78
III of 1870 repealed	IV	4 & sch. II
VII of 1870, clause substituted in section 19 of, ...	XV	2
XII of 1870 amended	XII	
Act to be read with, ...	"	7
XXVII of 1870, sections 16 and 17, and schedules repealed	X	2 & sch. I
I of 1871, section 22, no appeal from order under, to pay compensation	X	286, ill.

	Act.	Sec.
Act (*concluded*)		
VII of 1871, see *Emigration.*		
X of 1871, see *Excise act.*		
XIX of 1871, sections 1, 2, 3, 4, 5 and 6 repealed ...	X	2 & sch. I
I of 1872, amendment of, ...	XVIII	
not to affect section 12, Act XV of 1852 ...	"	12
IV of 1872, see *Panjáb laws act.*		
V of 1872, amendment of, ...	XX	
X of 1872, postponement of, ...	XVII	
	XXVII	
See *Code of criminal procedure.*		
application of, ...	I	1
of conspirator, how far a relevant fact	"	10
See *Relevancy of statement.*		
fitted to deceive	IX	17, cl. (4)
specially declared to be fraudulent	"	17, cl. (5)
offended against to be quoted in charge	X	439
order directing person to abstain from, ...	"	518
to be followed in miscellaneous criminal cases and proceedings	"	539
relating to inland customs, revival of rules pending passage of,	XXV	pream.
See *Commencement, Extent.*		
Actionable wrong, conspiracy to commit, ...	I	10
Active concealment when a fraud	IX	17, cl. (2)
Acts of Parliament when judicially noticed	I	57
how proved	"	78
presumption as to genuineness of copies of private, ...	"	81
statements made in recitals in, ...	"	37
done by certain deputy collectors to be deemed to have been properly done	XXII	2
saving of certain, ...	"	2, para. 2
See *Enactments, Repeal.*		
Adding to terms of written contract, &c., see *Exclusion of evidence.*		
Additional judge in special court	VII	66
Additional sessions judges, appointment and powers of, ...	X	17
powers to try European British subjects . .	"	76
Aden, provision as to native passenger ship from Turkish port touching at, ...	XII	5
Adjourned sitting, jury or assessors to attend, ...	X	260
Adjournment of inquiry	X	194
of sessions trial	"	264
of summons case	"	205, 208
of trial on amendment of charge	"	448
of warrant trials	"	219
Adjudication of insolvency, see *Petition.*		
of penalty for non-delivery of goods re-imported...	XXIII	5, para. 2
to be subject to appeal	"	5, para. 2
Administration of insolvent's estate under direction of court by its own officers or by assignees ...	IV	27
discharge of insolvent on completion of, ...	"	29
of insolvent estates, power to frame rules for,...	"	31
See *Beneficial interest, Board of administration, Chief court, Estates, Letters, Rules.*		
Administrator, saving of rights, powers and duties of, ...	XX	1
Administrator general chargeable with income-tax ...	VIII	19
may retain duty	"	20
Administrator general's act, 1867, saving of, ...	XX	
Admiralty jurisdiction, relevancy of certain judgments in, ...	I	41
of magistrates	X	157

	Act.	Sec.
ADMISSIBILITY of communications made during marriage ...	I	122
of evidence of affairs of state	"	123
judge to decide as to, ...	"	136
of questions tending to corroborate evidence of relevant fact	"	156
of document produced by witness	"	162
of evidence, judge to decide as to, ...	X	256
See *Question of law, Marriage-certificate-book.*		
'ADMISSION' defined	I	17
by party to proceeding or his agent	"	18
person interested in subject-matter of proceeding	"	18
person from whom interest derived by party to suit	"	18
person whose position or liability must be proved as against party to suit	"	18
suitor in representative character	"	18
person expressly referred to for information by party to suit	"	20
proof of, against person making it, and by or on his behalf	"	21
oral, as to contents of documents, when relevant ...	"	22
in civil cases, when relevant	"	23
not conclusive proof of matter admitted ...	"	31
may operate as estoppel	"	31
facts admitted need not be proved	"	58
of execution by party to attested document ...	"	70
of evidence, improper, when no ground for new trial	"	167
of guilt, not to be recorded by police officer except for his own use	X	121
accused person, in summons case, may be convicted on his own, ...	"	206
of guilt, conviction upon, in sessions trial ...	"	237
conviction on, ...	"	273
extent of appeal	"	273
of evidence, improper, when fatal	"	284
accused may be convicted on, ...	"	324
of native military lunatics into asylums, Act to facilitate, ...	XXI	
See *Confession, Evidence.*		
ADMISSIONS	I	17—31
to lunatic asylums, legalization of, ...	XXI	6
ADMITTED fact need not be proved	I	58
to probate in British India	XVIII	7
ADOPTION, rule of decision in question as to, ...	IV	5
See *Blood.*		
ADULT male member of family, service on, ...	VIII	44
male member of family, service of summons on, ...	X	154
in case of juror ...	"	409
ADULTERY, charges of, ...	X	439, ill. (*c*)
and house-breaking, joinder of charges of, ...	"	454. ill. (*n*)
and enticing away, joinder of charges of, ...	"	454, ill. (*p*)
sanction necessary to prosecution for, ...	"	478
valid excuse for wife refusing to live with her husband	"	536
Ad valorem, see *Duty.*		
ADVANCES made by agent	IX	217
ADVANTAGE obtained by use of confidence or authority ...	IX	16, cl. (1)
by breach of duty	"	18, cl. (3)
received under agreement discovered to be void or under contract becoming void	"	65
ADVERTISEMENT as to goods not cleared	XXIII	4

	Act.	Sec.
ADVOCATE, in cases referred to high court, parties may appear by, See *Government advocate.*	VII	50
ADVOCATE GENERAL, power of, to sanction prosecutions ...	X	465
ADVOCATES, licensing of, ...	VII	58
power to make rules for qualification and admission of, ...	"	58
of high courts entitled to act without license ...	"	58
power to withdraw or suspend licenses of, ...	"	58
may appeal against withdrawal or suspension ...	"	58
control and taxation of fees of, ...	"	59
AFFAIRS of state, admissibility of evidence of, ...	I	123
AFFIDAVIT, high court may inquire on, into grounds of detention of European British subject	X	81
AFFIDAVITS presented to court or officer, Act not applicable to, ...	I	1
AFFINITY, see *Consanguinity, Impediment.*		
AFFIRMATION, examination of witnesses upon, ...	X	331
not to be administered to accused	"	345
AFFIRMATIONS, see *Oaths.*		
AFFRAY, suppression of,—duty of public	X	91
orders to prevent, ...	"	518
AFRICA, see *Natives.*		
AGE to be completed by man and woman to be married ...	III	2 (2)
undue influence over person whose mind is enfeebled by, ...	IX	16, cl. (1)
of native christians intending marriage	XV	60 (1)
under 18, consent required in case of, ...	"	60, prov.
to be stated	"	schs. I to IV
AGENCY, termination of, ...	IX	201
coupled with an interest	"	202
AGENT, conduct of, ...	I	8
statement of, ...	"	18
See *Principal and agent.*		
parties to cases referred need not appear personally or by,... See *Secretary of state.*	VII	77
of non-resident chargeable with income-tax	VIII	17
to furnish statements of income and of persons represented	"	18
may retain duty	"	20
penalty on, for default	"	38
to render accounts on demand	IX	13
fraud by, ...	"	17
intent to deceive, ...	"	17
defined	"	182
who may employ, ...	"	183
who may be, ...	"	184
his authority may be express or implied	"	186
extent of authority of, ...	"	188
his authority in an emergency	"	189
his responsibility for sub-agent	"	192
his responsibility for sub-agent appointed without authority	"	193
his duty in selecting agent for principal	"	195
his duty in conducting principal's business	"	211
skill and diligence required from, ...	"	212
to communicate with principal	"	214
may retain moneys due to himself	"	217
to pay sums received for principal	"	218
when his remuneration becomes due	"	219
not entitled to remuneration for business misconducted ...	"	220
his lien on principal's property and papers	"	221
when he cannot personally enforce nor be bound by contracts on behalf of principal	"	230

	Act.	Sec.
AGENT (*concluded*)		
rights of parties to contracts made by undisclosed, ...	IX	231
supposed to be principal, performance of contract with, ...	"	232
personally liable, right of person dealing with, ...	"	233
liability of pretended, ...	"	235
remunerated by share of profits not a partner ...	"	242
See *Account, Advances, Commission.*		
of accused, ordinarily, may not see police diary ...	X	126
right of, to state case	"	251
to be heard on appeal if present ...	"	278
may require question and answer to be recorded	"	338
when he may require interpretation of evidence	"	340
of appellant may appear on hearing of appeal ...	"	280
appearance of person by, in possession-case	"	530
in cases where a summons is issued, magistrate may allow accused to appear by, ...	"	151
claim to appear by,—no appeal against order rejecting such claim	"	286, ill. (*j*)
court of revision may hear, ...	"	297
evidence when read over to, ...	"	339
of owner or occupier of land, duty of, as regards report of certain matters	"	90
person whom it is desired to bind to keep the peace may be allowed to appear by, ...	"	495
prosecutor and accused may appear by, before officer to whom commission is addressed	"	330
sentence of fine may be pronounced in presence of, ...	"	211
AGREEMENT, oral, evidence of, inadmissible to vary terms of written contract, &c.	I	92
varying terms of document, evidence of contemporaneous, ...	"	99
to produce title-deeds, &c.	"	130
to liquidate unpaid debts from property subsequently acquired	IV	29
for payment of revenue	"	35
defined	IX	2, cl. (*e*)
when void	"	2, cl. (*g*)
when a contract	"	2, cl. (*h*)
when voidable	"	2, cl. (*i*)
mistake of parties to, ...	"	20
in restraint of marriage	"	26
in restraint of trade	"	27
in restraint of legal proceedings	"	28
void for uncertainty	"	29
by way of wager	"	30
to substitute a new contract	"	62
to rescind or alter original contract	"	62
for postponement of payment or delivery or both ...	"	78
See *Certainty, Magic, Minor, Natural affection, Object, Treaty, Void agreement.*		
AGREEMENTS, when they are contracts	IX	10
AKYAB, see *Commissioner.*		
ALIMENTARY SALT illegally manufactured or imported ...	XXV	1 (*e*)
ALLIANCE, see *Dominions.*		
ALLOWANCE of expenses to complainants and witnesses ...	X	421
of maintenance payable from date of order ...	"	536
ALTERATION of a contract	IX	62
of partnership contract	"	252
in allowance of maintenance	X	537
of judgment illegal after signature	"	464

	Act.	Sec.
ALTERATION (*concluded*)		
not to be made in erroneous entry	XV	78
by notification	XXV	1 (*f*)
ALTERNATIVE promise by one branch is illegal	IX	58
charge, specimen of, ...	X	sch. III
judgment in the, ...	"	461
order to be in, ...	"	521
AMBIGUOUS document, exclusion of evidence to explain, ... See *Language.*	I	93
AMENDMENT of section 7, Act XV of 1869	VII	78
of charge, accused may apply for, ...	X	444
may be made by any court before judgment is signed, or verdict of jury or opinion of assessors is given ...	"	445
procedure on, ...	"	447, 448
of Indian Evidence Act, 1872	XVIII	
of definition of 'Coin'	XIX	
of Act V of 1872	XX	
of Panjáb opium law	XXVI	
AMENDS, see *Compensation.*		
AMERICAN colonies of Her Majesty, British subjects born, &c., in, are European British subjects	X	71
trial of, to be by jury; optional with accused to demand jury in non-jury case	"	234
trial of, with non-European jury	"	242
may elect to be tried with assessors when proper jury not obtainable	"	408
court of session how to obtain jury at trial of, ...	"	408
offender, penal servitude in case of, ...	XV	68, cl. 2
ANCESTOR, relationship forming a bar to marriage must be traceable through some common, ... See *Beneficial interest, Lineal ancestor.*	III	2, 2nd pro.
'ANGLICAN' defined ... ... See *Bishop.*	XV	3
ANNOYANCE to persons lawfully employed, orders to prevent,	X	518
ANNOYING questions, court to forbid, ...	I	152
ANNUAL RETURN of employés liable to tax	VIII	8
of profits ... ... See *Return.*	"	11
ANNUAL REVISION of list of jurors and assessors	X	403
ANNUITIES, duty leviable on, ...	VIII	5
deductions of duty from, ...	"	7, 8
ANNUITY in consideration of sale of good-will	IX	244
ANNULMENT of partnership contract	IX	252
ANSWER of witness, see *Witness.*		
to issue	I	3, expl.
'ANY MAGISTRATE,' in column 7, means any magistrate of the first, second or third class	X	sch. iv, note 4th
APOLOGY by offender in contempt; discharge	X	436
APPEAL from order declaring person subject to jurisdiction of court of wards	IV	37
against convictions under track-law	"	42, par. 2
costs of reference chargeable to, ...	VII	32, cl. 2
second appeal from certain decisions passed in, ...	"	33
case referred to judicial commissioner to be tried as an, ...	"	36
from decree of recorder in what cases not allowed ...	"	42
allowed ...	"	42, cl. 2
against suspension or withdrawal of advocate's license ...	"	58

	Act.	Sec.
APPEAL (*concluded*)		
case referred to high court to be tried as an, ...	VII	77
against order of assessment or order on petition ...	VIII	32
time for presenting,...	"	32
order on, ...	"	32
documents to accompany, ...	"	32
highest court of, in a province, is a high court ...	X	4
in cases prosecuted by public prosecutor; duty of appellate court	"	62
from conviction of European British subject by magistrate to lie either to court of session or high court ...	"	79
from conviction of European British subject by court of session to lie to high court	"	80
lies from order deciding that a person is not a European British subject	"	83
procedure of court of, where no charge has been drawn up in trial of warrant case	"	216
where no appeal lies, record in summary trials ...	"	227
no appeal against decision as to fitness of juror ...	"	243
no appeal from decision by judge that question is one for him to decide and not for jury	"	256
where sessions judge differs from jury and submits proceedings to high court as an, ...	"	263
CHAPTER XX, regarding, ...	"	266—86
in jury cases to be on matter of law only	"	271
none against order passed in revising list of jurors or assessors	"	286, ill., 402
where appeal lies, compensation when payable ...	"	308
whipping and imprisonment; in appealable cases, delay of infliction of whipping	"	310
court of, when may order new trial when conviction is based on evidence taken partly by one officer and partly by another	"	328
lies against refusal to summon defence-witness in warrant case	"	362
against order enforcing penalty of bail-bond by magistrate lies to magistrate of district	"	398
lies against orders placing unowned or suspicious property at disposal of government	"	417
power of court of, to stay, &c., order regarding property connected with offence	"	419
form of order	"	420
power of court of, to order, in case of certain convictions, convicted person to enter into recognizances to keep the peace ...	"	489
security	"	490
against adjudication of penalty for non-delivery of goods re-imported	XXIII	5, par. 2
APPEALS, marriage not to be solemnized until lapse of period allowed for, ...	III	8
from certain courts, power of deputy commissioner to hear, ...	VII	8, table
instituted in certain courts, powers of commissioner as to,	"	8, table
judicial commissioner as to, ...	"	8, table
in which presiding officers are interested, procedure in respect to, ...	"	21
against his own decrees, procedure of presiding officer as to,	"	21

	Act.	Sec.
APPEALS (*continued*)		
to judicial commissioner against his own judgments, procedure in respect to, ...	VII	21, cl. 4
to commissioner, time allowed for presenting, ...	"	28
holding court at certain places for trial of, ...	"	39, cl. 3
power to direct transfer of, to recorder's court ...	"	51
to special court from judge of Maulmain	"	69
power to direct trial of, by special court	"	71
from recorder to special court in criminal cases ...	"	73
See *Civil appeals, Pending, Transfer.*		
assistant sessions judge may not hear, ...	X	18
from convictions by magistrates of second and third class, power to hear, conferable on magistrates, first class ...	"	27
and on magistrates, first class, in charge of divisions of districts	"	29
transfer of, by high court	"	64
CHAPTER XX, regarding	"	266—86
against convictions or sentences passed by magistrates of second and third classes	"	266
against orders in bad livelihood cases	"	267
against convictions in contempt cases	"	268
against convictions or sentences passed by magistrates of first class	"	269
against convictions of chief executive officers and assistant sessions judges	"	270
against convictions of session court; jury cases on matters of law only; in capital sentences, procedure; mode of deciding difference of opinion in high court	"	271
local government may direct appeal from judgment of acquittal, but ordinarily no appeal	"	272
no appeal from certain sentences; extent of appeal from conviction on prisoner's own plea	"	273
from summary convictions by magistrates, first class; combination of punishments; tacking on unappealable sentences; saving of appeals by European British subjects	"	274
copy of judgment or order to accompany, ...	"	275
copy of judgment, order or charge to jury to be given to party affected	"	276
procedure when appellant in jail	"	277
rejection of appeal; appellate court may call for proceedings	"	278
notice of hearing, to appellant and to public prosecutor	"	279
appellate court may alter or reverse finding or sentence, or may enhance sentence	"	280
suspension of sentence; release of appellant on bail .	"	281
appellate court may make or direct further inquiry ...	"	282
finding or sentence when reversible by reason of error or defect in charge or proceedings; irregularity prior to trial immaterial; appellate court may reduce punishment	"	283
procedure in case of conviction by court not having jurisdiction	"	284
finality of orders on, ...	"	285
unless otherwise provided, no appeal to lie from judgment, order or sentence of criminal court ...	"	286
no appeal from—		
order refusing to grant compensation, &c. ...	"	286, ill. (*a*)
dismissal of complaint	"	286, ill. (*b*)
order to furnish security to keep the peace ...	"	286, ill. (*c*)

	Act.	Sec.
APPEALS (*concluded*)		
no appeal from—		
order passed by magistrate of district to furnish security to be of good behaviour	X	286, ill. (*d*)
order passed under chapter xxxix, or jury-report ...	"	286, ill. (*e*)
order of maintenance	"	286, ill. (*f*)
order placing name on jury-list	"	286, ill. (*g*)
order by court of session fining juror or assessor ...	"	286, ill. (*h*)
refusal to order commitment	"	286, ill. (*i*)
refusal to permit appearance by agent ...	"	286, ill. (*j*)
order to pay compensation under Act I of 1871 ...	"	286, ill. (*k*)
APPEARANCE, accused's right when case is referred for sentence ...	X	46
APPELLANT, appearance of, on hearing of appeal	X	280
in jail; procedure	"	277
APPELLATE COURT, marriage not to be solemnized until giving of decision of, ...	III	8
may confirm decision of lower court without summoning respondent	VII	30
reference by, to judicial commissioner in case of doubt	"	31
decision of first, when final	"	34
reference by, to judicial commissioner when first decision confirmed on question of law or custom, &c.	"	35
bound to give public prosecutor notice of appeal and copy of grounds of appeal in cases prosecuted by him	X	62
judgment of acquittal, appeal against, ...	"	272
to hear appellant or his counsel or agent if he appears	"	278
to give notice of hearing to appellant, and in certain cases to magistrate of district ...	"	279
power of, to alter or reverse finding and sentence, or to enhance sentence	"	280
may suspend sentence	"	281
may make further inquiry, or order it to be made	"	282, 289
may reduce punishment	"	283
to annul conviction beyond jurisdiction of court below, and direct new trial	"	284
what judgments, &c., of, final	"	285
may order payment of compensation ...	"	308
duty of, in respect of material error in charge	"	451
APPELLATE HIGH COURT, order of, to bring up European British subject confined	X	81
APPELLATE JURISDICTION of judicial commissioner, jails in Burma placed within, ...	VII	78
APPLICATION for performance	IX	48, 49
for delivery of goods sold	"	93
to stop re-delivery of goods to bailor	"	167
to court to wind up partnership	"	265
of Act to all races	X	11
for jury in local nuisance case	"	523
of public servant when equivalent to complaint ...	"	470
to reduce or increase rate of maintenance ...	"	537
for goods for re-importation, in charge of collector ...	XXIII	4
See *Exclusive right, New manufacture, Privilege.*		
APPLICATIONS for authority to proceed with certain suits ...	VII	20
for reference to judicial commissioner when admissible	"	35, cl. 2

	Act.	Sec.
APPLICATIONS (*concluded*)		
to be deemed to have been properly made ...	XXII	2
See *Pending, Transfer.*		
APPOINTMENT of officers to courts in Burma	VII	22, 24, 27
of judges of criminal courts in whom vested ...	X	9
of public prosecutor	"	57
for particular cases or classes of cases or for cases generally	"	58
of sessions judge	"	16 (read with 9)
See *Public officers.*		
APPOINTMENTS under repealed enactments to be deemed to be made under Act	XV	2
APPORTIONMENT of relief or compensation between bailor and bailee	IX	181
APPREHENSION, report of, to be made to magistrate of district or magistrate of division of district ...	X	132
See *Arrest.*		
APPROPRIATION of payments	IX	59—61
APPROVER, see *Accomplice, Pardon.*		
ARBITRATION, contract to refer disputes to, ...	IX	28
ARBITRATOR, Act not applicable to proceedings before, ...	I	1
ARCHDEACONRY, see *Quarterly, Registrar.*		
AREAS, see *Deputy collectors, Sub-divisions.*		
ARMED MEN, control of entry of, into towns and cities ...	IV	44
conviction for assembling, and recognizance to keep the peace	X	489
security	"	490
ARMY of Her Majesty, see *Articles of war.*		
arrest of deserter from, ...	X	92
ARREARS of maintenance, person liable to one month's imprisonment for each month of, ...	X	536
ARREST of accused in court may be made by any magistrate ..	X	22
of offender in magistrate's presence may be ordered by any magistrate	"	22
of offender, duty of public as to, ...	"	91
of person who has committed offence beyond local jurisdiction	"	157
of person under warrant executed beyond local jurisdiction; procedure	"	169, 174, 175
of person under warrant for offence committed beyond magistrate's local jurisdiction; procedure ...	"	174
by military of persons engaged in unlawful assembly ...	"	484
power to make, not conferred on person ordered to investigate	"	146
in presence of magistrate under his order	"	166
procedure on, ...	"	174, 175
warrant of, see *Warrant.*		
without warrant	"	92—104
when police may, ...	"	92
of person charged refusing to give his name and residence	"	93
of vagabonds	"	94
police to prevent certain offences ...	"	95
information of design to commit such offences	"	96
to prevent such offences	"	97
for injury to public property ...	"	98

	Act.	Sec.
ARREST (*concluded*)		
without warrant, ingress to be allowed into house entered by person of whom police in search ...	X	99
procedure where ingress not obtainable...	"	100
person arrested to be taken before magistrate or officer in charge of police-station	"	101
under order in writing	"	102
procedure when police officer deputes subordinate to, ...	"	102
police may pursue offenders into other jurisdictions	"	103
detention of offenders attending court ...	"	104
by private persons	"	105
of deserters from British ships ..	"	106
how to proceed with person arrested ...	"	107
for offence committed in magistrate's presence	"	108
and removal of persons, other than European British subjects, committing offence in native state, and escaping into British India	XI	11
ARRESTED PERSON not to be threatened or promised to induce confession, nor to be prevented from disclosing...	X	120, 184
to be brought before magistrate (arrest under warrant)	"	183
search of, not bailed	"	387
ART, opinions of experts on point of, ...	I	45
ARTICLE connected with investigation when to be forwarded ...	X	127
ARTICLES OF WAR judicially noticed	I	57
Indian, obedience by officer or soldier to order given in accordance with, no offence ...	X	486
ASCERTAINED GOODS	IX	78
ASCERTAINMENT of thing contracted to be sold	IX	79
of amount of price	"	81
of goods after date of contract	"	82
of goods by subsequent appropriation ...	"	83
of goods by seller's selection	"	84
ASIA, see *Natives*.		
ASSAULT AND HURT, joinder of charges of, ...	X	454, ill. (*j*)
conviction for, and recognizance to keep the peace	"	489
security	"	490
ASSAULTING member of governor general's council, &c., form of charge of, ...	X	sch. III
public servant, rioting and grievous hurt, joinder of charges of, ...	"	454, ill. (*f*)
ASSEMBLING armed men, conviction for, and recognizance to keep the peace	X	489
security	"	490
ASSEMBLY, dispersion of, by force	X	481
of five or more persons likely to cause disturbance of public peace, dispersal of, ...	"	480
unlawful, see *Unlawful assembly*.		
ASSENT to appropriation of goods for purpose of agreement ...	IX	83
of surety to composition, &c., with principal debtor ...	"	135
of creditor to misrepresentation	"	142
ASSESSMENT of income from land, rules for, ...	VIII	21
to be made by collector	"	25
on past year's income	"	26

	Act.	Sec.
ASSESSMENT (*concluded*)		
when assessee becomes chargeable within year ...	VIII	26
application for reduction or cancelment of, ...	"	27
petition against, ...	"	30
confirmed or enhanced on petition	"	31
appeal	"	32
amendment of, on proof of profits falling short ...	"	37
on assessee giving up business or dying or becoming insolvent or losing income	"	37
bar of suit to set aside, ...	"	42
See *Average, Collector.*		
ASSESSORS, questions to witness by, ...	I	166
for trial of civil suits in recorder's court ...	VII	43
officers of court not to be appointed, ...	"	43
appointed by desire of parties to suit, remuneration to,	"	43, cl. 2
in trials of European British subjects, at least half the number of, to be European British subjects ...	X	78
service of summons on, not to follow chapter xii ...	"	158
trials with, before court of session	"	232
trial with, instead of by jury; effect of irregularity ...	"	233
when to be chosen	"	238
how chosen	"	239
view by, of scene of offence	"	253
opinion of, when to be taken	"	255
when may be examined as witnesses	"	258
absence of,—procedure	"	259
to attend at adjourned sitting	"	260
judgment in cases tried with, ...	"	261
opinion of, to be recorded	"	262
may aid in trial of several offenders	"	265
not to be present at enquiry ordered by appellate or reference court	"	289
list of, to be framed	"	400
revision of list of, ...	"	402
annual revision of list of, ...	"	403
persons between 21 and 60 liable to serve as, ...	"	404
persons disqualified from serving as, ...	"	405
persons exempted from serving as, may be summoned on trial of European British subjects	"	406
how summoned	"	407
trial of European or American with, when proper jury not obtainable	"	408
summons on, how served	"	409, 411
power of court of session to summon fresh set of, ...	"	410
court of session may excuse persons from having to attend as, ...	"	411, 412
fine for non-attendance of,—imprisonment in default...	"	414
in trials with, judgment when pronounced ...	"	462
ASSETS and liabilities, see *Debtor.*		
ASSIGNEES, see *Administration.*		
of land-revenue, see *Descent.*		
ASSIGNMENT of land-revenue derived by inheritance	IV	35
ASSISTANCE to person other than police officer executing warrant...	X	163
ASSISTANT CHEMICAL EXAMINER, report of, ...	X	325
signature of, may be presumed genuine	"	325
ASSISTANT COMMISSIONER, civil jurisdiction of court of, ...	VII	8, table
not to take cognizance of small cause court suits	"	8, prov.

	Act.	Sec.
ASSISTANT COMMISSIONER (*concluded*)		
may be invested with power to try suits up to Rs. 5,000	VII	16
powers of small cause court judge ...	"	17
ASSISTANT COMMISSIONERS where there are, the chief executive district officers may be invested with certain powers	X	36
appeals against convictions of such chief executive officers ...	"	270
ASSISTANT DISTRICT SUPERINTENDENT OF POLICE may exercise certain powers of district superintendent	X	138
ASSISTANTS to collectors invested with powers of deputy collectors	XXII	1
ASSISTANT SESSIONS JUDGE, appointment, powers, and jurisdiction of, ...	X	18
of three years' standing and being European British subject, power of, to try European British subjects ...	"	76
appeals against convictions of, ...	"	270
ASSOCIATION not being a company, meaning of "Collector" in case of, ...	VIII	2
ASYLUM, order for reception of lunatic into, ...	XXI	4
reception and detention of lunatic in, ...	"	4, par. 2
payment of expenses to officer in charge of,... ...	"	5
See *Lunatic asylum.*		
ASYLUMS, Act to facilitate admission of native military lunatics into, ...	XXI	
legalization of past admissions into, ...	"	6
ATTACHED PROPERTY, procedure in respect of claims to, ...	VIII	36 (*d*)
ATTACHMENT and sale of property may be ordered by any magistrate in cases judicially before him	X	22
of property of person absconding	"	172
of property of absconding witness	"	353
and sale of property of person not appearing to his bail	"	396
of sureties	"	397
of juror or assessor ...	"	414
of person bound to keep the peace	"	502
of surety	"	503
of surety to bond to be of good behaviour	"	514
of subject of dispute in possession-cases ...	"	531
See *Debtor.*		
ATTEMPT to commit certain offences may be tried summarily ...	X	222
when not tried summarily, evidence how recorded ...	"	333, 336
to injure public property; duty of police	"	98
ATTENDANTS on persons not natives of India not to be deemed passengers	XII	2
ATTESTATION, presumption as to, ...	I	89
of entries in certificates and marriage-register-books	XV	33, 54
correction of errors	"	78
ATTESTED DOCUMENT, not required by law to be attested, proof of,	I	72
required by law to be attested, proof of,	"	68—71
ATTESTING, see *Certificate, Declaration.*		
ATTESTING WITNESS, when execution of document must be proved by,	I	68

	Act.	Sec.
ATTESTING WITNESS, (*concluded*)		
proof, when he cannot be found, of document executed in the United Kingdom ...	I	69
proof, when he denies or forgets execution ...	"	71
ATTORNEY, see *Powers of attorney*.		
communication made to, by or for client, when disclosable	I	126
waiver of privilege ...	"	128
certain questions asked by, without reasonable grounds may be reported to high court ...	"	150
privately instructed for prosecution to act under direction of public prosecutor	X	60
or pleader inserted in Evidence Act	XVIII	6
ATTORNEYS of high court entitled to act in recorder's court without license	VII	58
their liens	IX	171
bill drawn by member of firm of, ...	"	251, ill. (*b*)
AUCTION, sale by, ...	IX	86, ill. (*b*)
separate sale of lots sold at, ...	"	122
AUSTRALIAN colonies of Her Majesty, British subjects born, &c., in, are European British subjects	X	71
AUTHENTICATION of returns of entries in marriage registers ...	XV	29
of extracts from marriage registers ...	"	62, cl. 2
AUTHORITY, misuse of, ...	IX	16
of agent, express or implied	"	186
definition of express, ...	"	187
implied, ...	"	187
See *Agent, Estoppel*.		
to sanction prosecution, see *Prosecutions in certain cases*.		
AVA, see *British territory, Re-importation*.		
AVERAGE of income for assessment	VIII	26
BAD CHARACTER, relevancy of, in criminal proceedings ...	I	54
BAD LIVELIHOOD, arrest of person of notorious, ...	X	94
cases; appeals	"	267
binding of persons of notorious, ...	"	505
See *Security to be of good behaviour*.		
BAIL of person arrested by magistrate's order	X	108
when police may take, ...	"	125, 127, 128, 132
taken by police not to be excessive	"	129
magistrate may direct on warrant that it shall be taken ..	"	160
may be taken by magistrate before whom person is brought under warrant of arrest	"	170
of accused person on adjournment of enquiry	"	194
in summons case	"	204
release of appellant on, by appellate court	"	281
court of revision may bail convicted person	"	297
CHAPTER XXVIII, regarding, ...	"	388—99
person accused of bailable offence, magistrate to bail, ...	"	388
not to be taken ordinarily in non-bailable cases; but it may be taken under certain circumstances	"	389
court of session may order admission to, or reduction of, ...	"	390
recognizance with sureties; conditions of bail-bond ...	"	391
insufficient bail; procedure	"	392
may be taken at any time before conviction	"	393
release of person furnishing, ...	"	394
sureties, procedure on application by, for discharge ...	"	395
procedure to compel payment of penalty in bail-bond by accused	"	396

	Act.	Sec.
BAIL, (*concluded*)		
procedure to compel payment of penalty in bail-bond by sureties	X	397
criminal courts when may act under sections 396 and 397 ...	"	398
remission of part of penalty	"	398
revision of, and appeal against, orders passed by magistrates	"	398
high court or court of session how to levy sum forfeited ...	"	399
officer or criminal court may receive money or Government promissory notes in lieu of, ...	"	471
power of civil or criminal court to take, for appearance before magistrate	"	426
BAILABLE OFFENCE, lunatic accused of, may be released on security	X	4
'BAILABLE OFFENCE OR CASE'	X	sch. IV, note 2nd
'BAILABLE OR NOT,' in column 5, to be read with sections 388 and 389	X	74, exp.
BAILBOND	IX	117
BAILEE estopped from denying authority of bailor	I	117
may prove right of person to whom he delivers goods ...	"	71
when finder of goods has responsibility of, ...	IX	148
defined	"	149
delivery to, how made	"	151
care to be taken by, ...	"	152
when not responsible for loss of thing bailed ...	"	154
making unauthorized use of goods bailed	"	155
mixing with bailor's consent his goods with goods of bailor	"	156
mixing without bailor's consent when goods can be separated	"	157
mixing without bailor's consent when goods cannot be separated	"	180
may sue person wrongfully taking or injuring goods bailed	"	148
BAILMENT defined	IX	165
by several joint owners	"	117
BAILOR, bailee estopped from denying authority of, ...	I	148
defined	IX	150
to disclose faults in goods bailed	"	164
his responsibility to bailee	"	166
without title	"	180
may sue person wrongfully taking or injuring goods bailed	"	171
BANKERS, their lien	IX	251, ill. (*c*)
money received by member of firm on its behalf and appropriated	"	73, cl. 2
BANNS, publication of, ...	XV	sch. III
whether marriage is by, to be stated	"	147
BAR to further proceedings, dismissal of complaint no, ...	X	195
to proceedings, discharge no, ...	"	210
to fresh proceedings; withdrawal of complaint in summons case	"	347
to trial; conditional pardon bars trial by magistrate ...	"	
BARRISTER, communication made to, by or for client, when disclosable ...	I	126
when not disclosable ...	"	126
waiver of privilege	"	128
certain questions asked by, without reasonable grounds may be reported to high court	"	150

	Act.	Sec.
BARRISTER (*concluded*)		
privately instructed for prosecution to act under direction of public prosecutor	X	60
right of, to appear for defence	"	186
BASTARDY, rule of decision in questions as to, ...	IV	5
BEEF, see *Sale.*		
BEHAVIOUR, see *Security to be of good behaviour.*		
BENCH of judges to deal with cases referred to high court ...	VII	49
BENCH OF MAGISTRATES, see *Magistrates' bench.*		
exercising powers of magistrate, first class, may be empowered to try summarily ..	X	224
exercising powers of magistrate, second or third class, may be empowered to try certain offences summarily ...	"	225
exercising powers of magistrate, first class, appeals from convictions of, on summary trial	"	274
BENEFICIAL INTEREST in estate for which settlement was made with ancestor	IV	35
in estate in which more persons than one have a joint undivided interest, when court of wards may administer, ...	"	35, cl. 2
BENEFIT received by party rescinding voidable contract ...	IX	64
gained by agent dealing on his own account ...	"	216
from transaction affecting partnership	"	258
See *Account, Advantage.*		
BETROTHAL, rule of decision in questions as to, ...	IV	5
BHÁMU, representative of British Government at, ...	XXIII	1
BIGAMY, punishment for, ...	III	16
See *Religion.*		
BILL OF EXCHANGE proof of, when drawn in set	I	91, ill. (*c*)
acceptor of, estopped from denying authority of drawer	"	117
acceptor of, may deny drawing	"	117
BILL OF HEALTH, see *Native passenger ship.*		
BILL OF LADING, cessation of right to stop a transit by assignment of, ...	IX	102
pledge of, to secure advance made specifically upon it	"	103
title conferrible by possessor of, ...	"	108, exp. 1
pledged by possessor of, ...	"	178
signed by captain without having received goods	"	238, ill. (*b*)
BIRTH during valid marriage, when conclusive proof of legitimacy	I	112
BIRTHS, see *Registrar general.*		
BISHOP, exception of clergymen licensed by, from restriction as to time for solemnizing marriages	XV	10 (1)
license from, as to place for solemnizing marriages ...	"	11
to authorize fee for license	"	11
saving of marriages under special license from, ...	"	69, cl. 2
license from, ...	"	73, cl. 2
See *Roman catholic.*		
BLANKS in deed	I	93, ill. (*b*)
'BLOOD, marriage or adoption' inserted in Evidence Act ...	XVIII	2
BOARD of administration for Panjáb, saving of privileges granted by, to certain Chiefs ...	IV	39
rules relating to Panjáb salt prepared by, ...	XXV	pream.
Lieutenant Governor of the Panjáb substituted for,...	"	1 (*d*)

	Act.	Sec.
Bodily distress, undue influence in case of, ...	IX	16, cl. 2
feeling, state of, see *Relevancy of facts.*		
infirmity may incapacitate person from serving as juror or assessor	X	405
Body, state of, see *Relevancy of facts.*		
when police are to send it in for medical examination ...	X	133
Bombay, duty of head of village in, to investigate cases of unnatural or sudden death	X	133
jurisdiction and procedure of landholders, village police officers and cantonment magistrates saved ...	"	541
powers of government of, to sanction certain prosecutions	"	488
See *Government, High court, Presidencies, Presidency towns.*		
Bona fides, see *Good faith.*		
Bond for performance of public duty, liability on breach of condition of, ...	IX	74
security-bond to keep the peace; conditions	X	490
to keep the peace; penalty; form of, ...	"	493
of security to keep the peace; form	"	509
to be executed by masters of native passenger ships ...	XII	5
Book to be kept by police for complaints	X	112
for entry of copies of marriage certificates	XV	34, cl. 2; 35, 36
Book of laws, presumption as to genuineness of, ...	I	84
Books, presumption as to, ...	I	87
of account, entries in, when relevant	"	34
rules regarding, may be made by high court	X	292
See *Recorder.*		
Borrower, see *Loan.*		
Boundary, offence committed near, where triable	X	67, ill. (*b*)
of land, dispute concerning, ...	"	530, 531
Breach of duty	IX	18, cl. 2
of warranty, buyer's right on,	"	117
irrespective goods not ascertained or non-existent, buyer's right on, ...	"	118
of contract of sale	"	120
of conditions of pardon; remand of person to undergo sentence	X	322
by Queen's evidence ...	"	349
of the peace, persons bound to assist in preventing, when asked	"	91
conviction for, and recognizance ...	"	486
security	"	490
dispute concerning possession likely to occasion, ...	"	530, 531
See *Foreign vagrants.*		
Breaking of door or window in executing warrant of arrest ...	X	180
in executing search-warrant ...	"	383
of zanána under search-warrant	"	384
Bribe, credit of witness impeached by showing, ...	I	155
accepting, form of charge	X	sch. III
Bride, declaration to be made by, ...	III	10 & sch. II
Bridegroom, declaration to be made by, ...	III	10 & sch. II
British Burma, Act to consolidate law relating to courts in, ...	VII	6
exception as to law opposed to custom in, ...	"	
recorder to exercise jurisdiction under Divorce Act throughout, ...	"	44
jails in, how to be deemed to be situate ...	"	78
power of recorder to issue commissions in, ...	"	78
Acts repealed so far as they relate to, ...	"	sch.

	Act.	Sec.
BRITISH BURMA, (*concluded*)		
chief executive district officers in, may be invested with certain powers ...	X	36
appeals against convictions of,	"	270
Act extends only to, ...	XVI	1
See *Burma, Spirits.*		
BRITISH DOMINIONS, see *Executive.*		
BRITISH GOVERNMENT, representative of, ...	XXIII	1
BRITISH INDIA, Acts expressly declared to extend to whole of, ...	I, III, VI, VIII, IX, X, XI, XII, XIII, XV, XXI	
laws in force in, judicially noticed	I	57
mistake as to law of, ...	IX	21
place for transportation to be within, ...	X	319
Act to provide for trial of offences committed in places beyond, ...	XI	
powers of British officers in places beyond, ...	"	4—8
rate of duty not to exceed the highest leviable on spirits in other parts of, ...	XVI	2
practice as to subsistence allowance to witnesses in courts throughout, ...	XXIV	pream.
See *Admitted, Arrest, Exclusive right, India, Indian ports, Infringement, Inquiries, Native Indian subjects, Officer, Political agent, Principal officer, Remedies.*		
BRITISH MERCHANT SHIPS, arrest of deserters from, ...	X	106
BRITISH OFFICERS, see *British India.*		
BRITISH SUBJECTS in native states, Act applies to oaths made by, or administered to, ...	VI	2
in native states, extension of criminal law of British India to, ...	XI	8
liability of, for offences committed in native states	"	8
imprisoned by political agents, power to make rules as to, ...	"	15 (1)
BRITISH TERRITORIES judicially noticed	I	57
BRITISH TERRITORY, proof of cession of, ...	I	113
Act for regulating re-importation into, of goods cleared at Rangoon for territory of King of Ava	XXIII	
certificate to be obtained before re-importation of goods into, ...	"	2
goods to be delivered to collector of customs at some station in, ...	"	3
certain goods found in, liable to seizure and confiscation	"	6
BROKERS, see *Policy-brokers.*		
BUDDHIST, see *Marriage.*		
BUDDHIST LAW to rule where parties are Buddhists	VII	6
BUDDHISTS, see *Buddhist law.*		
BUILDING, dangerous, stopping construction of, or removal ...	X	521
generally used for public christian worship included in 'Church'	XV	3
BUOY, prevention of injury to, ...	X	98

	Act.	Sec.
Buoys or skins for crossing streams, regulation of keeping of, ...	IV	47
Burden of proof	I	101—112
definition of, ...	"	101
as to asserted legal right or liability ...	"	101
in suit or proceeding	"	102
as to particular fact	"	103
of fact necessary to be proved to make other evidence admissible	"	104
that case of accused is within exceptions of Indian Penal Code	"	105
of fact especially within knowledge ...	"	106
of death of man known to have been alive within thirty years	"	107
that man is alive who has not been heard of for seven years	"	108
as to relationship in case of partners ...	"	109
landlord and tenant	"	109
principal and agent	"	109
as to ownership	"	110
of good faith where one party stands in position of active confidence	"	111
in prosecutions for offences in respect of opium...	XXVI	5
Burma, see *British Burma.*		
Burma courts' act, 1872	VII	
Burma spirit duty act, 1872	XVI	
Business, agreement in restraint of, ...	IX	27
usual hours of, ...	"	47, 48
See *Course of business, Good-will, Trade.*		
Buyer to bear loss when goods become his property	IX	36
Calendar, see *Gregorian.*		
Calendars, rules regarding, may be made by high court ...	X	292
to be submitted to high court	"	293
Cancelling of powers	X	54
Cantonment magistrates in Madras and Bombay, saving of jurisdiction and procedure of, ...	X	541
Cape of good hope, British subjects born, &c., in the colony of, are European British subjects ...	X	71
Capital punishment, see *Death.*		
Capitulation, see *Treaty.*		
Care to be taken by bailee	IX	151
Caricature is a 'document'	I	3
Carriage, hire of unsafe, ...	IX	150, ill. (*b*)
Carrier, delivery to, ...	IX	91
goods in transit while in possession of, ...	"	100
Cases not specially provided for, rule of decision in,... ...	IV VII	6 6
pending in insolvency court, conduct of, ...	IV	33
referred to high court to be dealt with by full bench ...	VII	49
procedure in, ...	"	50
transferred to judicial commissioner, certain provisions applied to, ...	"	52, cl. 2
pending when Act comes into force to be decided under it...	X	3
or classes of cases, power of local government to direct trial of, before specified court of session	"	63
or classes of cases or appeals may be transferred by high court	"	64
Cash when receivable in lieu of bail	X	399
Caste, rule of decision in questions as to, ...	VII	6

	Act.	Sec.
CAT-OF-NINE TAILS, use of, in whipping...	X	311
CAUSE of relevant facts or facts in issue	I	7
opportunity to show, must be given to person before payment of penalty of bond to keep the peace is enforced ...	X	502
opportunity to show, in local nuisance cases	"	521
showing, ...	"	525, 527
CAUTION, accused persons not to be cautioned against confessing ...	X	120, 184
CENTRAL PROVINCES, chief executive district officers in, may be invested with certain powers ...	X	36
appeal against conviction of such officers ...	"	270
Act extends to, ...	XXII	5
CEREMONIES, see *Rites*.		
CEREMONY or form in solemnizing marriage	XV	25, 51
of marriage, declaration to be made during, ...	"	51, cl. 5
CERTAINTY required in agreements	IX	29
CERTIFICATE of filing of suit to prevent marriage	III	8
effect of lodging of, with registrar	"	8
omission to lodge, as prescribed ...	"	8, cl. 2
of marriage, form, entry and signing of, ...	"	13
containing false statement penalty for attesting, &c., ...	"	21
required for excusing officer from serving as juror ...	VII	56, cl. 4
by collector as to amount of income	VIII	
to be attached to certain records of confessions ...	X	122, 346
of inspector general of prisons or of visitors of lunatic asylums receivable as evidence ...	"	432
of officer appointed by government to inspect lunatic made over to friend or relative	"	434
by political agent as to fitness of inquiry into charge	XI	9
of notice given and declaration made by person intending marriage	XV	17
declaration before issue of such, ...	"	18
power to prohibit issue of such, ...	"	20
inquiry before issue of such, ...	"	21
issue of such, in case of minority	"	22
issue of such, to native christians	"	23
form of, ...	"	24 & sch. II
solemnization of marriage after issue of, ...	"	25
when void	"	26
of new notice	"	26, cl. 2
attached as counterfoil to marriage-register-book, registry of marriages in,...	"	32
entries in, to be signed and attested	"	33
order of entries in, ...	"	33, cl. 2
number of, to correspond with that of entry in marriage-register-book	"	33, cl. 2
to be separated from book and sent to marriage registrar	"	34
to be copied in book kept by marriage registrar ...	"	34, cl. 2
to be sent to secretary to government ...	"	34, cl. 3
copy of, to be entered and numbered ...	"	35
registrar to add number to, and send it to secretary to government	"	36
of notice given and oath made	"	41, 42
petition for order for issue of, ...	"	43
to be issued according to order	"	43, cl. 3
protest against issue of, ...	"	44, cl. 2
not to issue until protest disposed of	"	44, cl. 3

	Act.	Sec.
CERTIFICATE (*concluded*)		
when to issue in case of protest	XV	45, cl. 7
petition against refusal of, ...	"	46, 47
by registrar doubting authority of person forbidding, ...	"	48
reference by registrar doubting authority of person forbidding, ...	"	48, cl. 6
when to issue in such cases	"	48, cls. 5, 8
liability for frivolous protest against, ...	"	49
form of, ...	"	50 & sch. II
supply of forms of, ...	"	50, cl. 2
solemnization of marriage after issue of, ...	"	51
when void	"	52
of new notice	"	52, cl. 2
attached as counterfoil to marriage-register-book ...	"	54
entry in, to be signed	"	54, cl. 2
number of, to correspond with that of entry ...	"	54, cl. 3
to be separated and sent to secretary to government	"	55
procedure on application for, by native christian ...	"	57
native christian to be enabled to understand, ...	"	57
conditions to be fulfilled in case of native christians applying for, ...	"	60
when to be granted, and fee for, ...	"	61
to be signed and received in evidence	"	61, cl. 2
penalty for signing false, ...	"	66
for forbidding, by false personation ...	"	67
for wrongly issuing, ...	"	71, cls. 1, 4; 72, cls. 1, 2; 73, cls. 5, 6, 7
for marrying after expiry of, ...	"	71, cl. 2; 73, cl. 5
for grant of, by unlicensed person ...	"	74
for destroying or injuring, ...	"	75, cl. 1
for counterfeiting, ...	"	75, cl. 2
for false entry in, ...	"	75, cl. 3
marriage not void for irregularity as to, ...	"	77, cl. 3
marginal entry in correction of error to be made also in, ...	"	78
to be sent to secretary to government in case of correction of error	"	78, cl. 3
search for, to be allowed	"	79
to be obtained before re-importation	XXIII	2 & sch.
exported goods not protected by, ...	"	6
See *Duplicate, Goods, Master, Original.*		
CERTIFICATES issued under repealed enactments confirmed ...	XV	2
of marriage between native christians, persons licensed to grant, may solemnize marriages ...	"	5, cl. 5
See *Licenses.*		
to be delivered to marriage registrar	"	51, cl. 4
to be sent to secretary to local government ...	"	55
by registrars in native states to whom to be sent ...	"	56
See *Counterfoil.*		
search for, ...	"	79
certified copies of, to be evidence	"	80
to be sent quarterly to Home Department for India House	"	81
fees for, ...	"	82, cl. 2

	Act.	Sec.
Certificates (*concluded*)		
fees for protests against, or prohibitions of, ...	XV	82, cl. 3
fees for searching, or copies of, ...	"	82, cl. 4
fees for copies of entries in, ...	"	82, cl. 5
Certified copies, secondary evidence	I	63
of public documents	"	76
presumption as to genuineness of, ...	"	79
proof of public documents by, ...	"	77
of foreign judicial records, presumption as to, ...	"	86
of entries in registers and of certificates and duplicates, to be evidence	XV	80
Cession of British territory, proof of, ...	I	113
Chakdári tenure	IV	20
Chakdárs	IV	20
Chapel included in 'Church'...	XV	3
to be stated	"	schs. I & II
Chaplain, see *Senior chaplain.*		
Chaplains exempted from serving as jurors or assessors ...	X	406
Chapter I—Preliminary, repeal, local extent and definitions	X	1—4
II—Of criminal courts	"	5—11
III—Of courts of session	"	12—18
IV—Of magistrates and their powers	"	19—34
The magistrate of the district	"	35, 36
Subordinate magistrates	"	37—49
Magistrates' benches	"	50—53
Continuance and alteration of powers ...	"	54—56
V—Of public prosecutors	"	57—62
VI—The place of inquiry and trial	"	63—70
VII—Of criminal jurisdiction over European British subjects	"	71—88
VIII—Offences of which information must be given to the police, and duty of the public ...	"	89—91
IX—Of arrest without warrant	"	92—104
Of arrest by private persons	"	105—108
X—Powers of the police to investigate ...	"	109—138
XI—Of complaints to a magistrate	"	139—151
XII—Of the summons	"	152—158
XIII—Of the warrant	"	159—185
XIV—Preliminary	"	186—188
XV—Of inquiry into cases triable by the court of session or high court	"	189—202
XVI—Of the trial of summons cases by magistrates	"	203—212
XVII—Of the trial of warrant cases by magistrates ...	"	213—221
XVIII—Of summary trials	"	222—230
XIX—Trial by court of session	"	231—265
XX—Appeals	"	266—286
XXI—Reference...	"	287—291
XXII—Superintendence and revision	"	292—300
XXIII—Execution	"	301—322
XXIV—Special rules of evidence in criminal cases ...	"	323—330
XXV—Evidence how taken	"	331—349
XXVI—Of securing the attendance of witnesses ...	"	350—356
Inquiries...	"	357—360
Summons cases	"	361
Warrant cases	"	362
Sessions trials	"	363, 364
Of securing documentary evidence ...	"	365—367
XXVII—Of search-warrants	"	368—387
XXVIII—Bail	"	388—399

	Act.	Sec.
CHAPTER (*concluded*)		
XXIX—Formation of lists of jurors and assessors and their attendance	X	400—414
XXX—Miscellaneous provisions	„	415—422
XXXI—Lunatics	„	423—434
XXXII—Contempts of court	„	435—438
XXXIII—Of the charge—form of charges	„	439—451
Joinder of charges	„	452—459
Previous acquittals or convictions ...	„	460
XXXIV—Of the judgment, order and sentence ...	„	461—464
XXXV—Prosecutions in certain cases	„	465—479
XXXVI—Of the dispersion of unlawful assemblies ...	„	480—488
XXXVII—Of security for keeping the peace... ...	„	489—503
XXXVIII—Of security for good behaviour	„	504—517
XXXIX—Local nuisances	„	518—529
XL—Possession	„	530—535
XLI—Of the maintenance of wives and families ...	„	536—538
XLII—Miscellaneous	„	539—541
CHARACTER when relevant	I	52—55
to prove conduct imputed in civil cases, when relevant	„	52
good, relevancy of, in criminal proceedings ...	„	53
bad, relevancy of, in criminal proceedings ...	„	54
relevancy of, as affecting damages	„	55
cross-examination and re-examination of witnesses to,	„	140
of sureties to bond to be of good behaviour; ground of rejection	X	516
CHARGE to be drawn up before commitment	X	198
to be furnished to accused in inquiries	„	199
unnecessary in summons cases	„	203
to be drawn up in warrant trials; effect of omission; omission how supplied	„	216
must be drawn up to allow of acquittal or conviction on trial of warrant case	„	220
unnecessary in summary trials	„	227, 228
of offence committed in native state not to be inquired into without certificate of political agent	XI	9
CHARGE, JUDGMENT, AND SENTENCE		
CHAPTER XXXIII, regarding,		
form of charges	X	439—60
charge to state offence	„	439—451
specific name of offence, if any, to be given... ...	„	439
if no specific name, enough to give notice must be stated	„	439
Act and section offended against to be quoted ...	„	439
what implied in, ...	„	439
language of, ...	„	439
previous conviction when to be set out in, ...	„	439
particulars as to time, place, and person injured ...	„	440
particulars as to manner in which alleged offence was committed, when necessary	„	441
form of, to follow schedule	„	442, sch. III
effect of errors or omissions in,...	„	443
accused person may apply for amendment of, ...	„	444
court may, on its own motion, amend, before judgment or verdict	„	445
when court of session may frame and amend, ...	„	446
when trial may be proceeded with immediately after amendment of, ...	„	447
when new trial may be ordered or trial suspended or adjourned	„	448

	Act.	Sec.
CHARGE, JUDGMENT, AND SENTENCE (*concluded*)		
prosecutor and accused may recall witnesses ...	X	449
when sanction necessary to new, to be obtained ..	"	450
appellate or revision court how to act in case of material error in, ...	"	451
joinder of charges	"	452
separate charges and trials of distinct offences .	"	452
more offences than one of the same kind, committed within one year of each other, may be tried together	"	453
offences connected together may be charged separately and the charges tried together	"	454, I
act falling within two definitions may be separately charged under both, and the charges tried together ..	"	454, II
acts severally constituting more than one offence, but collectively coming within definition of one offence, may be charged under each offence, and the charges may be tried together	"	454, III
when doubtful what offence has been committed, several may be charged and tried together	"	455
when facts appear to cover more offences than one, and it is doubtful which offence should be charged, accused may be convicted of offence not charged	"	456
when offence proved is included in offence charged, person may be convicted of offence not charged	"	457
joinder of persons when legal	"	458
withdrawal of remaining charges on conviction of one of several charges	"	459
previous acquittals or convictions	"	460
person acquitted or convicted not liable to fresh trial for same offence, or offence of which he was liable to have been convicted at such trial	"	460
previous acquittal or conviction no bar to conviction of separate offence, though forming part of same transaction	"	460
fresh trial when consequences ensue and alter character of offence	"	460
where facts cover a grave and a minor offence, conviction or acquittal of minor offence by court not having jurisdiction to try grave offence no bar to new trial ...	"	460
when to be framed by civil court	"	475
CHARGE OF JUDGE TO JURY	X	255, 256
copy of, to be furnished to person affected	"	276
heads of, to be recorded with judgment	"	464
CHARGES in respect of goods not cleared	XXIII	4
CHARITABLE FOUNDATION, relevancy of opinions as to, ...	I	49
CHARITABLE PURPOSES, exemption from tax of income employed for, ...	VIII	3
CHARTS, relevancy of statements in, ...	I	36
presumption as to, ...	"	87
CHEATING, charges of, ...	X	139, ill. (*c*); 141, ill. (*b*); 143, ills. (*b*), (*c*)
CHEMICAL EXAMINER, report of, ...	X	325
signature of, may be presumed genuine ...	"	325
CHIEF COMMISSIONER, BRITISH BURMA—		
abolition of court of, ...	VII	3
transfer of suits, &c., pending in court of, ...	"	4
power of, to fix and vary limits of jurisdiction of courts	"	11

	Act.	Sec.
CHIEF COMMISSIONER, BRITISH BURMA—(*concluded*)		
to prescribe form and dimensions of court-seals...	VII	13 (1)
to fix places for holding courts	"	13 (2)
list of holidays to be prepared subject to orders of, ...	"	15
power of, to invest officers with special jurisdiction	"	16, 17, 19
may exercise powers of local government under section 7, Act XI of 1865	"	18
application to, for authority to proceed with suit	"	20, cl. 3
presiding officers not to try certain suits without direction of, ...	"	21
report to, of appeal to judicial commissioner against certain judgments and direction thereon	"	21, cl. 4
to appoint and may remove extra assistant commissioners, 3rd class	"	22, cl. 2
power of, to suspend or remove certain presiding officers	"	23, cl. 2
to have general control over appointments and removals of ministerial officers	"	27
power of, to transfer and restore civil appellate jurisdiction	"	29
may direct recorder to hold court in certain places	"	39, cl. 3
form and dimensions of seal to be prescribed by, ...	"	39, cl. 4
may vary local limits of civil jurisdiction of recorder	"	40
to determine what court shall try suits for immoveable property situated only partly within recorder's jurisdiction	"	41
may direct transfer of suits to recorder's court..	"	51
report to, in cases coming before recorder in which he is interested, and direction thereon..	"	52
may provide for performance of duties of recorder in case of absence or vacancy ...	"	60
suspensions and removals subject to orders of,...	"	61
to prescribe registers, &c., to be kept, and returns to be submitted, by recorder ...	"	62
recorder to comply with requisitions, and in matters not judicial to be under control of, ...	"	62
rules and forms made by recorder to be sanctioned by, ...	"	63
sanction of, to rules for service and execution of process	"	64
list of holidays and vacations to be sanctioned by, ...	"	65
may direct any commissioner to sit in special court as additional judge ...	"	66
to prescribe form and dimensions of seal of special court	"	67, cl. 2
rules for sittings of special court to be subject to sanction of, ...	"	68
may refer to special court cases pending elsewhere	"	71
CHIEF COMMISSIONER, CENTRAL PROVINCES—		
Act extends to territories under government of, ...	XXII	5, par. 2

	Act.	Sec.
CHIEF COURT OF PANJÁB may frame and alter rules for administration of insolvent estates ...	IV	31
appeal to, under track law	"	42, par.
republication of circulars of, ...	"	51
CHIEF EXECUTIVE DISTRICT OFFICER, powers which may be conferred on, in certain provinces and districts ...	X	36
appeals against convictions of,	"	270
CHIEF REVENUE CHARGE OF DISTRICT, 'Collector' includes person in, ...	XXII	4
CHIEFS in Panjáb, saving of privileges of certain, ...	IV	39
CHILD of deceased partner receiving annuity out of profits not a partner	IX	243
CHILDREN, legitimate, of a European British subject are European British subjects	X	71
maintenance of, ...	"	536
CHOWKEEDARS, see *Village police.*		
CHRISTIAN, see *Indian, Marriages.*		
CHRISTIAN DESCENDANTS of converted natives included in 'Native christians'	XV	3
CHRISTIAN NAMES to be stated	XV	schs. I to IV
CHRISTIAN RELIGION, see *Christians.*		
CHRISTIAN SUBJECTS of Her Majesty in native states, Act extends to, ...	XV	1
'CHRISTIANS' defined	XV	3
marriages of, to be registered	"	27
penalty for unauthorizedly solemnizing marriage between or with, ...	"	68
penalty for solemnizing, out of time or without witnesses, marriage between or with, ...	"	69
See *Marriage.*		
'CHURCH' defined	XV	3
marriages not to be solemnized, without license, in place other than, ...	"	11
in which marriage to be solemnized to be stated in notice	"	12 (*d*)
publication of notice in, ...	"	13
to be stated	"	schs. I. & II
'CHURCH OF ENGLAND' defined	XV	3
See *Clergymen.*		
'CHURCH OF ROME' defined	XV	3
See *Clergymen.*		
'CHURCH OF SCOTLAND' defined	XV	3
See *Clergymen, Rites, Senior chaplain.*		
CIRCULARS, see *Chief court.*		
CITIES, see *Armed men, Immoveable property, Right of pre-emption.*		
CIVIL APPEALS	VII	28-38
rule as to finding of special court in case of difference of opinion arising in, ...	"	75
CIVIL APPELLATE JURISDICTION, power to transfer and restore, ...	VII	29
CIVIL CASES pending in court of recorder of Maulmain, transfer of,	VII	4
CIVIL COURT, objector to marriage may file suit in, ...	III	7, cl. (2)
powers of certain courts in Burma	VII	8, table
order under Act to have force of decree of, ...	VIII	36
bar of suit in, to set aside assessment ...	"	42
appeals against convictions by, for contempt ...	X	268
power of, to punish certain contempts	"	435
record what to contain	"	435
certain contempts by European British subject ...	"	438

	Act.	Sec.
CIVIL COURT (*concluded*)		
may commit certain cases to sessions, or may send case to magistrate for inquiry and commitment ...	X	474
on commitment by, case to be sent to magistrate of district or magistrate, first class	"	475
making commitment may bind person over to give evidence	"	476
decision of, not affected by magistrate's order maintaining party in possession	"	531, 532
CIVIL COURTS, duty of judges of, as to decrees affecting land ...	IV	21
CIVIL EMPLOYMENT, military officers not in, exempted from tax	VIII	3
CIVIL JAIL, confinement in, of complainant in default of payment of compensation	X	209
imprisonment in, of surety to bail-bond ...	"	397
of juror or assessor	"	414
in default of payment of fine for contempt	"	435
penalty of bond to keep the peace ...	"	502
of surety	"	503
of surety to bond to be of good behaviour, in default of payment of penalty	"	514
CIVIL JUDICATURE in the Panjáb	IV	5-7
CIVIL JURISDICTION of courts	VII	8, table
of recorder of Rangoon	"	40-52
CIVIL OFFICERS superior to magistrate of district exempted from serving as jurors or assessors	X	406
CIVIL PROCEDURE CODE, section 22, persons exempted under, also exempted from liability to serve as jurors or assessors	X	406
CIVIL PROCEDURE LAW, how it affects proof of facts... ...	I	5
CIVIL PROCEEDINGS, parties to suit and husband and wife, competent witnesses in, ...	I	120
compensation paid by criminal court to be set-off	X	308
CIVIL SUIT, court making reference in, may proceed and determine contingent on opinion of superior court ...	VII	76
CIVIL SUITS, holding court at certain places for trial of, ...	VII	39, cl. 3
assessors for trial of, ...	"	43
power to direct trial of, by special court ...	"	71
CIVIL SURGEON, when body of deceased person to be forwarded to,	X	133
examination of, may be put in, or court may call him	"	323
to be examined as witness in trying soundness of mind	"	423
CLAIMS to attached property, procedure relating to, applied ..	VIII	36 (*d*)
See *Creditors, Debtor.*		
CLASS of persons, delegation to, of powers of governor general out of British India	XI	5
See *Race, Steamers.*		
CLASSES OF CASES, local government may empower magistrates of districts to withdraw, ...	X	48
local government may direct trial of, in any sessions division	"	63
high court may transfer, ...	"	64
CLEARANCE of goods, procedure on failure to effect, ...	XXIII	4

	Act.	Sec.
CLERGYMEN OF CHURCH OF ENGLAND, especially licensed, excepted from restriction as to time for solemnizing marriages	XV	10 (1)
where to solemnize marriages	"	11
to keep registers of marriages	"	28
to register marriages ...	"	28
to send quarterly returns to archdeaconry ...	"	29
within what time to send such returns	"	29, cl 2
penalty for offences by person other than, authorized to solemnize marriage ...	"	73
CLERGYMEN OF CHURCH OF ROME, generally or especially licensed, excepted from restriction as to time for solemnizing marriages	XV	10 (2)
registration of marriages solemnized by, ...	"	30
quarterly returns of marriages solemnized by, ...	"	30, cl. 2
registration of marriages by ordained persons who are not, ...	"	32
saving of certain marriages solemnized by, ...	"	69, cl. 2
penalty for offences by persons authorized to solemnize marriage, not being, ...	"	73
CLERGYMEN OF CHURCH OF SCOTLAND may solemnize marriages ...	XV	5 (2)
to keep registers of marriages	"	31
to register marriages ...	"	31, cl. 2
to send quarterly returns to secretary to local government	"	31, cl. 3
registration of marriages by ordained persons who are not, ...	"	32
penalty for offences by persons authorized to solemnize marriage, not being,	"	73
CLERK of legal practitioner, communication to, ...	I	127
when record of summary trial may be prepared by,	X	230
CLERK OF THE CROWN, record of commitment, &c., to be forwarded to, ...	X	198
CLIENT when compellable to disclose confidential communication ...	I	129
when not compellable to disclose confidential communication	"	129
See *Attorney*.		
CLOTHING of lunatic, payment for, ...	XXI	5
CODE OF CIVIL PROCEDURE, rules and forms not to be inconsistent with, ...	VII	63
applied to orders and executions ...	VIII	36
CODE OF CRIMINAL PROCEDURE, recorder to have session-court powers as defined in, ...	VII	53
proceedings of recorder in certain trials to be regulated by, ...	"	56
rules and forms not to be inconsistent with, ...	"	63

	Act.	Sec.
CODE OF CRIMINAL PROCEDURE, (*concluded*)		
references to, in former Acts, to be taken to be made to this Act	X	2
Act for postponing commencement of, ...	XVII	
to come into force on 1st January 1873	"	1
commencement of, in Sindh ...	XXVII	
'COERCION' defined	IX	15
consent to agreement caused by, ...	"	19
liability of person to whom payment or delivery has been made under, ...	"	72
See *Re-payment, Return.*		
'COGNIZABLE OFFENCE or CASE' defined	X	4
COGNIZABLE OFFENCES, police may arrest for, ...	X	92
COGNIZANCE of offences by court of session	X	231
COIN, offences against,—habitual offender to be committed ...	X	315
Act to amend definition of, in Penal Code, section 230 ...	XIX	
defined	"	1
See *Counterfeit coin.*		
COLLATERAL events	IX	31
security, retainer of goods pledged as, ...	"	176
'COLLECTOR' defined	VIII	2
annual returns to be delivered to, ...	"	8
statement of result of accounts to be delivered to, ...	"	10
annual return of profits to be delivered to, ...	"	11
may require production of accounts	"	12
to make order of assessment	"	12
certificate of, as to income	"	15
to issue notice for return of income	"	22
return to be delivered at office of, ...	"	23
list of lodgers and employees to be delivered to, ...	"	24
to determine persons chargeable	"	25
to direct as to period to be taken for average in making assessment	"	26
to cause notice to be served...	"	27
application to, for reduction or cancelment of assessment	"	27
amount to be paid to, ...	"	28
to grant receipt and sign it	"	28
petition to, against assessment	"	30
time for presenting petition may be altered according to opinion of,...	"	30
to be satisfied as to reason for not making return ...	"	30
to fix day and place for hearing petition, and to make order after hearing	"	31
when to refund fee on petition against assessment ...	"	31, 32
copy of petition to, and order thereon to accompany appeal	"	32
may summon persons to give information and require them to produce documents	"	33
may issue fresh notice	"	34
procedure of, in case of default	"	36
order of, to have force of decree	"	36
enforcement of order of, ...	"	36
to exercise powers of court as to executions ...	"	36
to grant receipt on recovery from defaulter ...	"	36
may cause assessment to be amended and refund over payment or grant relief	"	37

	Act.	Sec.
'Collector' (*concluded*)		
prosecution to be at instance of, ...	VIII	40
exercise of powers of, by others	"	43
notices served by delivering copy under signature of,	"	44
land paying revenue to be attached through, .	X	172
to frame list of jurors and assessors	"	400
to revise list	"	402
may exempt persons collecting revenue from service as jurors or assessors	"	406
saving of powers of, ...	"	535
Collector of customs at Thayetmyo, Rangoon, &c.		
goods to be delivered to, ...	XXIII	3
to retain goods until payment of duty and expenses	"	3, para. 2
procedure of, when goods not cleared	"	4
penalty for non-delivery of goods to, ...	"	5
penalty to be adjudged by, ...	"	5, para. 2
goods when liable to confiscation by, ...	"	6
Collector of revenue and customs exempted from serving as juror or assessor ...	X	406
Collector of land revenue denoted by "Collector" ...	VIII	2
defined	XXII	4
what included in, ...	"	4
Collusion in obtaining judgment may be proved	I	44
or fraud in making compositions	IV	28
Combination of punishments	X	20
of punishments gives appeal	"	274
Combustible substance, removal of, ...	X	521
Commencement of Act	I	1
... ...	III	1
... ...	IV	2
... ...	VI	2
... ...	VII	2
... ...	VIII	1
... ...	IX	1
... ...	X	1
of sessions trial	"	237
of Act	XI	1
... ...	XIII	1
... ...	XV	1
... ...	XVI	1
of criminal procedure code postponed ...	XVII	
of Act	XVIII	1
... ...	XXI	1
... ...	XXII	5
... ...	XXVI	1
of criminal procedure code in Sindh ...	XXVII	
Commissary, exception of clergyman licensed by, ...	XV	10, 11
saving of marriages under license from, ...	"	69, cl. 2
Commission to administer oath out of court and to take evidence	VI	4, cl. 3
of agent	IX	221
for examination of witness who cannot be conveniently summoned	X	330
of inquiry in case of lunacy may be ordered by local government; how composed	"	433
for taking evidence in case of offence committed in native state	XI	10
Commissioned officer of Her Majesty's Forces when may disperse unlawful assembly by military force ...	X	487

	Act.	Sec.
COMMISSIONER, control of, over courts of wards	IV	34
appeal to, from order declaring person subject to jurisdiction	"	37
decision of, on such appeal	"	37
sanction of, to fine on village	"	42
appeal to, from order of assessment	VIII	32
may summon persons to give information and require them to produce documents ...	"	33
COMMISSIONER OF AKYAB, saving of trials by, ...	VII	79
COMMISSIONER OF BRITISH BURMA, civil jurisdiction of court of, ...	VII	8, table
to have powers of sessions judge	"	9, cl. 2
control of, over courts of deputy commissioners	"	14
application to, for authority to proceed with suit ...	"	20
when such application to be made through, ...	"	20, cl. 2
time allowed for presenting appeal to, ...	"	28
power to transfer and restore civil appellate jurisdiction of,	"	29
second appeal from certain decisions of, ...	"	33
may be directed to perform duties of recorder in case of absence or vacancy ...	"	60
may be directed to sit in special court as additional judge ...	"	66
to record his opinion ...	"	66
rules as to finding in case of difference of opinion in special court sitting without a, ...	"	75
COMMISSIONER OF DIVISION may remit penalty	VIII	38
appeal to, from adjudication of penalty	XXIII	5, para. 2
COMMISSIONER OF INLAND CUSTOMS substituted	XXV	1 *(c)*
COMMISSIONER OF POLICE, procedure of, in regard to warrants of arrest	X	170
duty of, as to search-warrants ...	"	374
in presidency town, jurisdiction of, saved	"	540
COMMISSIONER OF REVENUE, appeal to, against order of assessment or order on petition ...	VIII	32
order of, to be final	"	32
exercise of powers of, by others ...	"	43
COMMISSIONERS exempted from serving as jurors or assessors ...	X	406
COMMISSIONS, power of recorder as to issue of, in Burma jails ...	VII	78
COMMIT, power to, by whom exercisable	X	143
COMMITMENT, power of, for trial inherent in magistrates of first class and magistrates of divisions of districts, and may be conferred on others . .	X	22—30
made by magistrate not empowered, how to be dealt with	"	33
refusing to order,—no appeal	"	286, ill. (*i*)
court of session or magistrate of district when may order, ...	"	296
court of revision may order, ...	"	297
to court of session in case of habitual offender ...	"	315
may be made on evidence partly recorded by one officer and partly by another	"	329

	Act.	Sec.
COMMITMENT (*concluded*)		
of person from whom pardon withdrawn ...	X	349
of witness for refusing to answer—by magistrate ...	"	356
by court of session	"	364
of person sane on enquiry but insane when offence was committed	"	424
without charge or on defective charge; court of session may frame or amend charge ..	"	446
when civil court may make, ...	"	474
by civil court; procedure	"	475
COMMITMENTS by justices in native states	XI	6
See *European british subjects.*		
COMMITTEE chargeable with tax	VIII	17
to furnish statement of income and of persons represented	"	18
may retain duty	"	20
penalty on, for default	"	38
for examination of native officer or soldier reported to be insane	XXI	3
COMMITTING MAGISTRATE, duty of, in sessions case where accused person is a European British subject and the sessions judge is not	X	77
See *Inquiry into cases triable by court of session or high court.*		
COMMON INTENTION of conspirators	I	10
COMMUNICATION during marriage privileged from disclosure ...	I	122
not generally admissible ...	"	122
when admissible	"	122
See *Confidential communication, Professional communication.*		
of proposal, how made	IX	3
when complete	"	4
of an acceptance when complete	"	4
of revocation when complete	"	4
of rescission of voidable contract	"	66
with principal	"	214
COMMUTATION of punishment ...	X	322
of sentence on pregnant woman . .	"	306
COMPANIES, duties on profits of, ...	VIII	10, 13
other than shipping	"	10
annual return of nett profits of, ...	"	11
power to require officers of, to attend and produce accounts	"	12
'COMPANY' defined	VIII	2
included in "Defaulter"	"	2
meaning of "Collector" in case of, ...	"	2
duty leviable on office or employment under, ...	"	5
annuities, pensions and salaries paid by, ...	"	5
deduction of tax from servants, &c., of, ...	"	8
effect of decision in favour of, on appeal against assessment	"	32
amendment of assessment on, in certain cases ...	"	37
refund of over-payment by, ...	"	37
relief to, in certain cases	"	37
power to declare principal place of business of, ...	"	45
See *Deduction, Indemnity, Officer, Principal agent, Principal manager, Principal place, Treasurer.*		

	Act.	Sec.
COMPARISON of signature, writing or seal with one admitted or proved, ...	I	73
power to compel person to write for,... ...	"	73
COMPENSATION for non-performance of contract containing reciprocal promises	IX	53, 54
for loss occasioned by failure to do a thing at or before a specified time	"	55
for non-performance of act known to be impossible or unlawful	"	56
by person receiving advantage under void agreement or contract becoming void	"	65
by person enjoying benefit of non-gratuitous act	"	70
for breach of contract	"	73
for failure to discharge obligations resembling those created by contract	"	73
for breach of contract in which a sum is named as payable in case of breach	"	74
for non-fulfilment of contract rightfully rescinded	"	75
for being prevented from rescinding contract ...	"	108, excep. 3
for loss caused by breach of warranty... ...	"	117, 118
for damage arising from goods bailed... ...	"	150
for damage to goods bailed	"	154
for loss caused by premature return of thing bailed gratuitously	"	159
for loss, &c., of goods not duly returned ...	"	161
for loss sustained by bailee owing to bailor's want of title	"	164
for trouble, &c., incurred by finder of goods ...	"	168
recovered in suit by bailee against wrongdoer ..	"	180
for revocation by principal	"	205
for renunciation by agent	"	205
for direct consequences of agent's neglect, ...	"	212
to agent for injury caused by a principal's neglect,	"	225
for loss arising from neglect or fraud of co-partner	"	250
for loss caused to firm by competing business carried on by partner	"	259
See *Apportionment, Promise.*		
to persons frivolously or vexatiously accused ...	X	209
no appeal against order refusing to grant, or to grant an enhanced award	"	286, ill. (*a*)
under section 22, Act I of 1871, no appeal from order to pay, ...	"	286, ill. (*k*)
out of fine when payable	"	308
See *Persons injured.*		
COMPETENCE to contract	IX	10, 11
COMPETENCY of witnesses	I	118—133
See *Witness.*		
COMPETENT person employed to perform promise	IX	40
COMPETING business carried on by partner	IX	259
COMPLAINANT, absence of, on inquiry	X	195
absence of, in summons case	"	205
absence of, on adjourned summons trial ...	"	208
compensation to, ...	"	308
duty of, in non-cognizable summons cases, to bring his witnesses	"	361
examination of, when case is transferred; procedure	"	44
effect of absence of, in warrant trials	"	215
examination of, in inquiries	"	190

	Act.	Sec.
COMPLAINANT, (*concluded*)		
examination of, to be in presence of accused ...	X	191
to be on oath, &c. ...	„	331
payment of expenses of, by criminal court; rules ...	„	421
recusant, may be forwarded in custody ...	„	131
to be bound to appear when case is sent up by police	„	130
witnesses of, to be heard in summons cases where accused does not admit	„	207
COMPLAINED, having complained against complainant or accused, &c., a ground of objection to juror ...	X	244
COMPLAINT, power to entertain, inherent in magistrates of districts and magistrates of divisions of districts; may be conferred on magistrates competent to try or commit	X	22—30
absence of,—magistrates of districts, of divisions of districts, and authorized magistrates of first and second class, may entertain cases without, ...	„	25—30
magistrate of district may authorize magistrates to entertain, within local limits	„	49
against European British subject may be inquired into or tried only by certain officers	„	72
any authorized magistrate may entertain, ...	„	73
made to police how to be dealt with	„	112, 113
how regarded in summons cases; variance of, ...	„	203
dismissal of, disclosing summons case	„	205, 208, 209, 212
in summons cases to be stated to accused person ...	„	206
may be dismissed under chapter xvi so far only as it relates to summons case	„	212
dismissed; what courts may order inquiry ...	„	298
report or application of public servant when equivalent to, ...	„	470
requiring sanction, see *Prosecutions in certain cases.*		
COMPLAINTS TO A MAGISTRATE	X	139—51
processes	„	139
when summons or warrant may be issued ...	„	140
unnecessary in cognizable case in which police have arrested accused	„	140
any person acquainted with facts of case may make, ...	„	140
who may entertain,—reference duly made, or complaint or police report, to competent magistrate, gives jurisdiction	„	141
who may act without complaint; saving of certain cases	„	142
who may commit for trial	„	143
examination of complainant; effect of irregularity ...	„	144
procedure by magistrate not empowered to receive complaint	„	145
postponement of issue of process; inquiry by magistrate or investigation by police	„	146
dismissal of complaint; issue of process ...	„	147
in what cases summons may issue	„	148
in what cases warrant may issue	„	149
warrant of arrest where summons not obeyed ...	„	150
where summons is issued, magistrate may allow accused to appear by agent	„	151
COMPLETION of business of agency	IX	201
COMPOSITION with principal debtor, when it discharges surety ...	IX	134
See *Assent.*		

	Act.	Sec.
COMPOSITION (*concluded*)		
of jury for trial of European or American ...	X	234
of person neither European nor American	"	241
COMPOSITIONS between debtor and creditors, giving effect to, ...	IV	28
objections to, to be decided on by court ...	"	28
COMPOUNDING offences	X	188
COMPROMISE by indemnity-holder	IX	125
CONCEALING stolen property, assisting in and receiving, joinder of charges of, ...	X	454, ill. (*l*)
CONCEALMENT	IX	17, cl. (2)
when a fraud	"	17
of mine on vendor's estate	"	19, ill. (*d*)
validity of guarantee obtained by, ...	"	143
of material fact by agent	"	215
See *Insolvent.*		
'CONCLUSIVE PROOF' defined	I	4
of certain matters	XI	5
of marriage	XV	61, cl. 2
CONCUBINAGE, agreement to let to hire for, ...	IX	23, ill. (*k*)
CONDENSER, see *Steam-ships.*		
CONDITION in life, necessaries suited to, ...	IX	68
precedent to acceptance, failure to fulfil, ...	"	6, cl. (3)
to be stated, ...	XV	schs. I to IV
See *Contents, Particulars.*		
CONDITIONAL pardon	X	322
CONDITIONS upon which marriages may be celebrated ...	III	2
under which marriages may be solemnized out of registrar's office to be prescribed	"	12
prescribed in section 2, marriages may be declared null for contravening, ...	"	17
to be fulfilled before registry of marriage ...	"	20, cl. 2
See *Objection to marriage, Objector.*		
of a proposal, proposal accepted by performance of, ...	IX	8
of bailment	"	153, 154
on which native christian marriages may be certified	XV	60
grant of certificate on fulfilment of, ...	"	61
CONDUCT how far relevant	I	8
imputed in civil cases, relevancy of character to prove, ...	"	52
acquiescence in continuance of contract signified by, ...	IX	39
CONFESSION caused by inducement, threat or promise, when irrelevant	I	24
to police officer, not proveable against accused ...	"	25
while in custody of police officer, when proveable against accused	"	26
how much may be proved against accused ...	"	27
made after removal of impression caused by inducement, threat or promise, relevant	"	28
of one of two or more accused persons, how far to be considered	"	30
otherwise relevant, not to become irrelevant because of promise of secrecy, &c.	"	29
or statement made during investigation may be recorded by any magistrate	X	22
made to magistrate not having jurisdiction in case is evidence		45

	Act.	Sec.
CONFESSION (*concluded*)		
police not to induce persons to confess	X	120
not to be recorded by police officer except for own use ...	"	121
made regarding cases investigated by police may be recorded by any magistrate	"	122
police not to induce person arrested under warrant to confess	"	184
made before committing magistrate to be put in on trial	"	248
accused may be convicted on, ...	"	324
no inducement to be offered	"	344
CONFIDENCE, misuse of, ...	IX	16
CONFIDENTIAL COMMUNICATION, when client compellable to disclose, ...	I	126
when client not compellable to disclose, ...	"	129
CONFINEMENT, diet and prison-discipline of imprisoned persons, power to make rules as to, ...	XI	15 (1)
See *Debtor, Solitary confinement.*		
CONFIRMATION cases, procedure of high court in, ...	X	301
of certain sentences passed by assistant sessions judges ...	"	18
chief executive district officers ...	"	36
of sentence of death	"	287
See *Reference.*		
CONFISCATION, goods liable to, ...	XXIII	6
of opium	XXVI	5
See *Attachment, Property.*		
CONNIVANCE	IX	17
See *Inhabitants.*		
CONSANGUINITY or affinity, in what degree of, parties to marriage not to be related to each other...	III	2 (4)
only law or custom relating to, to prevent marriage	"	2, 1st pro.
no law or custom relating to, to prevent marriage unless certain relationship can be traced between parties		2, 2nd pro.
See *Prohibition.*		
CONSCIOUSNESS of a sensation, a fact	I	3, ill. (*d*)
CONSENT to production of documents	I	130
of father or guardian to be obtained by parties intending marriage who are under certain age ...	III	2 (3)
of parties to trial of certain suits and appeals ...	VII	21
of parties to contracts	IX	10
defined	"	13
when free	"	14
caused by coercion or undue influence	"	19
fraud or misrepresentation	"	19
of surety to vary terms of contract	"	133
of bailor to mixture of goods	"	155, 156
of partners to alter or annul partnership-contract ...	"	252
to change nature of business	"	254, cl. (5)
declaration as to absence of person authorized to give, ...	XV	18 (*b*)
persons authorized to give, ...	"	19
necessary, unless persons authorized to give it are absent.	"	19, cl. 2
persons authorized to give, may prohibit issue of certificate	"	20
time to elapse before issue of certificate when minister not satisfied as to grant of, ...	"	22

	Act.	Sec.
CONSENT (*concluded*)		
required, marriage not void for irregularity as to statement regarding, ...	XV	77 (1)
CONSENT TO MARRIAGE required by law, declaration as to, in case of minor or minors	XV	18 (*b*)
oath as to, ...	"	42 (*c*)
provisions as to, applied	"	44
petition in case of insanity of person authorized to give, ...	"	45
petition against refusal of, ...	"	45
declaration on petition to have effect of, ...	"	45
in case of native christians when under 18	"	60, pro.
penalty for false representation of authority to give, ...	"	67
penalty for breach as to, ...	"	70
CONSENTS given under repealed enactments confirmed ...	XV	2
CONSERVANCY CLAUSES of police Acts, certain offences under, when triable summarily ...	X	225
'CONSIDERATION for a promise' defined	IX	2, cl. (*d*)
when lawful	"	23
inadequacy of, ...	"	25, exp. 2
for guarantee	"	127
not necessary to create an agency ..	"	185
See *Abstinence, Acceptance, Valuable consideration.*		
CONSPIRATOR, statement or act of, how far a relevant fact ...	I	10
CONSTITUTION and powers of courts	VII	8—15
and powers of criminal courts	X	5—88
CONSTRUCTION of wills, saving of provisions of Succession Act as to,	I	100
of document, see *Question of law, &c.*		
CONSUL, certificate by British, ...	I	78
saving of marriages performed by, between subjects of state he represents	XV	87
CONSULAR AGENT, saving of marriages performed by, between subjects of state he represents	XV	87
CONTEMPTS of the authority of public servants, sanction to prosecute certain, ...	X	467
of court	"	435—38
appeals against convictions for, ...	"	268
powers of civil, criminal and revenue courts to take cognizance of certain,—record ...	"	435
procedure where court considers more severe punishment necessary for, ...	"	436
discharge of offender or remission of punishment on his submission or apology for, ...	"	437
certain graver, by European British subjects, cognizable only by magistrate of first class who is a justice of the peace and a European British subject	"	438
except as provided in sections 435, 436 and 472, court not to try offences in contempt of its own authority	"	473
CONTENTS of documents how proved	I	61
in what cases secondary evidence admissible	"	65
relevancy of oral admission as to, ...	"	22
oral evidence of, secondary evidence ...	"	63
of statements by other persons of, when admissible	"	144

	Act.	Sec.
CONTENTS (*concluded*)		
of notice of intended marriage	XV	12, (*a*)—(*d*), 38, cl. 3
of quarterly returns of marriages	"	29, cl. 2
of petition by registrar doubting authority to forbid certificate	"	48
of packages	XXIII	sch.
'CONTINGENT CONTRACT' defined	IX	31
enforcement of, ...	"	32, 33
where the contingency is an event happening	"	32
where the contingency is an event not happening	"	33
where the contingency is the way in which a person will act	"	34
where the contingency is an event happening within a fixed time	"	35
where the contingency is an event not happening within a fixed time ...	"	35
where the contingency is the happening of an impossible event	"	36
CONTINUANCE of contract, acquiescence in, ...	IX	39
of powers on transfer	X	56
of Panjáb salt rules	XXV	pream.
CONTINUE, see *Municipal committees.*		
CONTINUING GUARANTEE	IX	129
revocation of, by notice	"	130
revocation of, by surety's death ...	"	131
revoked by change in firm	"	260
CONTRABAND, goods to be deemed to be, ...	XXIII	6
CONTRACT in form of document, evidence of terms of, ...	I	91
exclusion of evidence of oral agreement varying terms of, ...	"	92
examination of witness as to, ...	"	144
incidents of, saved	IX	1
defined	"	2, cl. (*h*)
competence to enter into, ...	"	10, 11, 12
made in lucid interval	"	12
when voidable	"	19
to refer to arbitration	"	28, excep. 1
contingent on an impossible event	"	32, 34, 35, 36
acquiescence in continuance of, ...	"	39
performance of, ...	"	40 — 50
compensation for breach of, ...	"	53, 54, 73, 74
when rendered void by illness	"	56, ill. (*e*)
alteration or rescission of a, ...	"	62
obligations resembling those created by, ...	"	68 — 72
with government	"	74
to sell future crops	"	87, ills. (*b*), *c*
to sell stolen property	"	108, ill. (*a*
entered into through an agent, enforcement of, ...	"	226
made by agent for foreign merchant	"	230
See *Agreement, Bailment, Communication, Compensation, Co-surety, Damage, Delirium, Discharge, Disqualification, Drunkenness, Guarantee, Indemnity, Injury, Insanity, Knowledge, Lunatic, Partnership, Restoration, Specific performance, Voidable contract, Void contract, Writing.*		

	Act.	Sec.
CONTRACTS for labour in straits settlements, power as to exemption of, from Emigration Act	XIV	1
for labour in straits settlements, bar of proceedings in respect of, ...	"	2
CONTRADICTION of witness	I	153
of proved relevant statement	"	158
CONTRADICTORY terms of written contract, &c.	I	92
See *Exclusion of evidence.*		
CONTRIBUTION, when one joint promisor may compel, ...	IX	43
sharing loss by default in, ...	"	43
of partners towards losses of partnership ...	"	254, cl. (2)
CONTROL, see *Accused persons, Armed men, Commissioner, Commissioner of british burma, Foreign vagrants*	XI	15 (2)
CONTROVERSY, statements made before, ...	I	32, par. (4)
CONVENTION between Her Majesty and Turkish Government, penalty for breach of, ...	XII	5
CONVERSATION, statement forming part of, ...	I	39
CONVERSION of proposal into promise	IX	7
CONVERTS and their christian descendants included in 'Native Christians'	XV	3
CONVICT, see *Escaped convict.*		
CONVICTED PERSON, presence of, unnecessary at further inquiry ordered by court of reference ...	X	289
CONVICTION, relevancy of previous, in criminal proceedings ...	I	54
upon evidence of accomplice only, not illegal ...	"	133
on evidence recorded partly by one officer and partly by another	X	328
of offence against the state, &c., a disqualification to serve as juror or assessor	"	405
of offence attended with criminal force; restoration of immoveable property...	"	534
previous, how proved	"	326
previous, when a bar to subsequent trial	"	460
previous, may be proved in bad livelihood cases .	"	515
in summons case	"	211
on trial of warrant case	"	220
when to be quashed in consequence of material error in charge	"	451
CONVICTIONS under track law, appeal against, ...	IV	42, para. 2
COORG, chief executive district officers in, may be invested with certain powers	X	36
appeals against convictions of, ..	"	270
COPIES not chargeable under Court Fees Act	VIII	32
of depositions and exhibits, power to direct receiving of, as evidence in trial for offence in native state	XI	10
of marriage-certificates	XV	34, cl. 2, 35, 36
of entries in marriage-registers, provisions as to, applied..	"	64
search for, and grant of, ...	"	79
fees for searching, ...	"	82, cl. 4
of entries in registers, &c., fees for, ...	"	82, cl. 5
See *Notices*	I	63
COPY of document, secondary evidence	"	159
when witness may refresh memory by reference to,		
of decision, time required for obtaining, excluded from reckoning period for appeal	VII	28

	Act.	Sec.
COPY (*concluded*)		
of judgment to be sent to court making reference ...	VII	36, 50
of determination of high court to be sent	"	77
of notice, service by tendering or delivering, ...	VIII	44
See *Collector, Fee.*		
of charge to be given to court of session, prosecutor and accused in session cases	X	198, 199, 446
of deposition may be given free of cost	"	201
of judgment or order to accompany appeal	"	275
to be furnished to party affected ...	"	276
of list of jurors and assessors where to be stuck up ...	"	401
of summons, when to be affixed to accused's house ...	"	155
of notice of intended marriage to be sent to marriage registrar	XV	15, 16
of returns of marriages to be sent to secretary to government	"	29, cl. 3
of notice of marriage to be published	"	39
sent to all registrars in district...	"	39
entered in book	"	40
of entry in marriage-register to be given	"	63
of notice, penalty for marrying without sending, ...	"	71 (3), 73, cl. 5
issuing certificate without sending, ...	"	73, cl. 5
CORPS, see *Medical officer.*		
CORRECTION of errors in registering marriages	XV	78
CORROBORATION of accomplice not required	I	133
of evidence of relevant fact	"	156
of proved relevant statement	"	158
CO-SHARERS, claim of, to pre-emption	IV	14. first
offer to sell when to be made to, ...	"	15
right of, to pre-emption as to shares in well ...	"	20
COST, copies of depositions may be given free of, ...	X	201
COSTS, remuneration to assessors recoverable as, ...	VII	43, cl. 2
of indemnity-holder	IX	125
liability for, on frivolous protest	XV	49
See *Reference.*		
CO-SUITOR, saving of right of suitor to act for, ...	VII	58
CO-SURETIES liable to contribute equally	IX	146
their liability when bound in different sums ...	"	147
CO-SURETY, effect of releasing, ...	IX	138
guarantee on contract that creditor shall not act upon it until another person joined as co-surety ...	"	144
COUNCILS for making laws and regulations, procedure of, judicially noticed	I	57
COUNSEL for accused to be heard on appeal	X	278
of accused may require question and answer to be recorded	"	338
of appellant may appear on hearing of appeal ..	"	280
right of, to state accused person's case	"	251
See *Barrister.*		
COUNTERFEIT COIN, search of house suspected to be used for sale or manufacture of, ...	X	377
knowingly delivering, to another as genuine, and possession of, forms of charge of, ...	"	sch. III
COUNTERFEIT GOVERNMENT STAMPS, search of house suspected to be used for sale or manufacture of, ...	X	377
COUNTERFEITING register or counterfoil-certificate, penalty for ...	XV	75, cl. 2
COUNTERFEIT SEALS, possessing,—joinder of three offences ...	X	454, ill. (*b*)

	Act.	Sec.
COUNTERFOIL CERTIFICATES, penalty for destroying or injuring,...	XV	75
making or counterfeiting,	"	75, cl. 2
false entry in, ...	"	75, cl. 3
See *Certificate.*		
COUNTERPART how far primary evidence	I	62
secondary evidence	"	63
COUNTERSIGNATURE of declaration before marriage	III	10
COURSE of business, existence of, when a relevant fact ...	I	16
statement made in, ...	"	32
of procedure of parliament and Indian legislative councils, judicially noticed	"	57
COURT, Act applies to judicial proceedings in, ...	I	1
Act not applicable to affidavits presented to, ...	"	1
defined	"	3
judicial notice of names of members and officers of, ...	"	57
to forbid insulting questions	"	152
See *Judge.*		
open, time to elapse before solemnization of marriage after notice of objection if there be a, ...	III	7
See *Civil court.*		
marriage not to be solemnized till giving of decision of, ...	"	8
See *Appellate court, Chief court.*		
marriage may be solemnized on favourable decision of, ...	"	8, cl. 2
marriage not to be solemnized on adverse decision of, ...	"	8, cl. 3
may fine objector to marriage	"	9
question as to validity of mode of contracting marriage how to be decided by, ...	"	19
pre-emption extends to sales under decree of, ...	IV	10
when to make decree in favour of person claiming pre-emption	"	17
petition to, for adjudication of insolvency	"	23
procedure of, on petition	"	24
to make full inquiry as to debts, and conduct of debtor, and may award imprisonment for misconduct ...	"	25
may annul fraudulent transfers of property	"	26
power of, to sell or administer estate	"	27
may appoint assignees to administer	"	27
to give effect to compositions	"	28
to decide as to objections to composition	"	28
when to order discharge of insolvent	"	29
saving of insolvency-proceedings of, had before passing of Act	"	33
powers of, as to certain oaths tendered by parties or witnesses	VI	4
to act according to justice, equity and good conscience ...	VII	6
refusing to make statement to record reasons	"	35, cl. 4
of magistrate of third class / second class / first class / of session — referred to	X	5
may permit private persons to prosecute	"	59
may order arrest of person in attendance	"	104
power of superior, to authorize record of summary trial to be in language of presiding officer	"	229
civil or criminal, duty of, to summon material witness ...	"	351
may attach moveable property of absconding witness ...	"	353
may release or sell	"	354
power of, to issue summons for document	"	365
search-warrant	"	366

	Act.	Sec.
COURT (*concluded*)		
power of, to impound document produced	X	367
may amend charge before judgment passed, or before verdict of jury or opinion of assessors is given	"	445
power of, to sanction prosecution of public servant ...	"	466
which is to try public servant may be specified by government ...	"	466
sanction to prosecute offence against public justice committed before, ...	"	468
sanction of, to prosecute offences relating to documents ...	"	469
power of, to make over certain cases to magistrate ...	"	471
except in certain cases, not to try offences in contempt of its own authority	"	473
conclusive proof in, of certain matters in case of delegation of powers by Governor General	XI	5
having jurisdiction over European British subjects, power to direct as to commitments to, ...	"	6
holding inquiry or trial as to offence committed in native state, power to direct that copies of depositions and exhibits shall be received as evidence by, ...	"	10
of state in which offence is committed, case of person accused may be made over to, ...	"	13
penalty for wrongly marrying without order of, ...	XV	71 (3)
issuing certificate without order of, ...	"	72, cl. 2
See *Assistant commissioner, Chief commissioner, Deputy commissioner, Extra assistant commissioner, Judge, Judicial commissioner, Lower court, Recorder, Superior court.*		
COURT FEES ACT, 1870, references in, to Income Tax Act ...	VIII	1
copies not chargeable under,... ...	"	32
clause substituted in section 19 of, ..	XV	2
COURT-HOUSE of magistrate of district and civil court, publication of list in, ...	X	401
objections to list of jurors and assessors to be heard at the sessions, ...	"	401
COURT-MARTIAL, Act applicable to judicial proceedings before, ...	I	1
COURT OF FIRST APPEAL, decision of, when final	VII	34
COURT OF INSOLVENCY, conduct of cases pending in, when Act comes into force	IV	33
COURT OF ORIGINAL JURISDICTION, second appeal where decision of, reversed or modified in appeal	VII	33
confirmation of decision of, when final	"	34
reference to judicial commissioner when decision of, confirmed in appeal on question of law or custom, &c.	"	35
COURT OF REFERENCE, powers of, exerciseable by special court ...	VII	74
COURT OF SESSION, recorder to exercise powers of, ...	VII	53
list of officers liable to serve as jurors to be sent to, ...	"	56, cl. 3
appeals to special court from convictions by recorder sitting as, ...	"	73
powers of special court as to sentences of death passed by recorder sitting as, ...	"	74
saving of trials by commissioner of Akyab as a,	"	97
See *Court.*		

	Act.	Sec.
COURT OF SMALL CAUSES excepted from jurisdiction	III	7, cl. 2
COURT OF WARDS	IV	34—38
See *Appeal, Beneficial interest, Commissioner, Deputy commissioners, Education, Estates, Jurisdiction, Management, Persons, Rules.*		
chargeable with income tax	VIII	19
may retain duty	"	20
duty of native officers collecting revenue or rent for, as regards report of certain matters	X	90
COURTS, seals of, of which court must take judicial notice ...	I	57
may be invested with insolvency jurisdiction ...	IV	22
in which instituted to hear and dispose of pending appeals, applications, proceedings and suits	VII	2
power to fix number of, ...	"	10
local limits of jurisdiction of, ...	"	11
confirmation of existing, ...	"	12
applications for authority to proceed with suits for property situated within jurisdiction of different, ...	"	20
grades of, enumerated	"	5
to hold trials according to code	X	7
subsistence allowance to witnesses in certain, ...	XXIV	preamble
See *Abolition, Civil jurisdiction, Constitution, Procedure, Small cause courts, Subordinate courts.*		
COURTS OF SESSION	X	12—18
sessions divisions	"	12
power to alter divisions	"	13
existing local jurisdictions of, to be sessions divisions	"	14
one court for each division ...	"	15
appointment and powers of sessions judges	"	16
appointment and powers of additional and joint sessions judges	"	17
appointment and powers of assistant sessions judges	"	18
to try offences committed within their divisions, or offences which they are directed to try	"	63
commitment of European British subjects when to be to, ...	"	75
powers of, to try European British subjects, to sentence them, or to transfer commitment to high court	"	76
proceedings before, in respect of European British subjects by what law regulated ...	"	87
trying accused, power of, to restore forfeited property	"	173
when accused person is to be committed for trial by, ...	"	196
record of commitment, &c., to be forwarded to,	"	198
trial by, ...	"	231-65
See *Trial by court of session.*		
when to appoint foreman of jury ...	"	246
appeals against convictions for contempt passed by small cause court to lie to, ...		268
what sentences of, are not appealable ...	"	273
may call for records of cases decided by subordinate courts	"	295
all magistrates in sessions division are subordinate to, ...	"	295

	Act.	Sec.
Courts of session (*concluded*)		
when to report to high court and when to order commitment	X	296
may order inquiry into dismissed complaint ...	"	298
execution of sentence; procedure ...	"	302
commitment of habitual offender to, ...	"	315
powers of, to issue commissions	"	330
how to record evidence		334, 335
See *Evidence*.		
power of, to direct offer of, and to offer, pardon	"	348
to order commitment on withdrawal of pardon	"	349
power of, to commit recusant witness to custody	"	364
may direct admission to, or reduction of, bail	"	390
may direct magistrate to levy penalty due on forfeited bail-bond	"	398
revised list of jurors and assessors to be sent to, ...	"	402
persons holding office in, disqualified from serving as jurors and assessors ...	"	405
how to choose jurors or assessors, and to call on magistrate to summon them ...	"	407
how to proceed to obtain jury in case of European or American	"	408
may direct fresh set of jurors or assessors to be summoned when necessary	"	410
may excuse person from having to attend as juror or assessor	"	411, 412
to keep list of persons who serve as jurors and assessors	"	413
may fine juror for non-attendance ...	"	414
commitment to, of person sane on inquiry, but insane when offence was committed ...	"	424
how to proceed when accused appears of unsound mind	"	425
may resume inquiry postponed on account of accused's state of mind	"	427
may appoint officer to inspect lunatic ...	"	427
how to act when accused, who was insane, is again brought before it	"	428
may amend charge before verdict of jury or opinion of assessors is given ...	"	445
may sanction withdrawal of charges ...	"	459
original jurisdiction of, in respect of certain cases; powers of magistrate for preparing such cases	"	472
making commitment may bind person over to give evidence	"	476
when may take recognizance to keep the peace	"	489
security to keep the peace ...	"	499
how to deal with person it considers should be bound to be of good behaviour ...	"	504
powers of, to demand security to be of good behaviour	"	507
either to discharge person or fix period not exceeding three years	"	508
release of person bound	"	512
Credible information; police report	X	494
Credit of witness, questions in cross-examination affecting, ...	I	146—150

	Act.	Sec.
CREDIT (*concluded*)		
of witness how impeached	I	155
when may be confirmed	"	158
when may be impeached	"	158
sale on, ...	IX	78, ills. (*c*), (*d*)
'CREDITOR' defined	IX	126
CREDITORS may petition for adjudication of insolvency ...	IV	23
insolvent whose discharge is opposed by, may be imprisoned	"	25
transfers of property for purpose of defrauding, or giving preference to, may be annulled ...	"	26
proceeds of estate to be divided amongst, ...	"	27
effect of order of discharge as to registered claims of, See *Remedy*.	"	29
of firm, liability of incoming partner to, ...	IX	249
CRIMES, see *Inquiries*.		
CRIMINAL ACT, non-liability of employer of agent to do a, ...	IX	224
CRIMINAL BREACH OF CONTRACT of service, offence of, not cognizable without complaint ...	X	142
CRIMINAL BREACH OF TRUST where triable	X	67, ill. (*e*)
charges of, ...	"	457, ill. (*a*)
CRIMINAL CASES pending in court of recorder of Maulmain, transfer of, ...	VII	4
in which European British subjects are concerned	"	39, cl. 3
power to direct trial of, by special court ...	"	71
appeals from recorder to special court in, ...	"	73
'CRIMINAL COURT' defined	X	4
CRIMINAL COURTS	X	5–11
grades of, ...	"	5
what officers to hold inquiries	"	6
what courts to try offences	"	7
under local and special laws	"	8
appointment and removal of judges and magistrates	"	9
saving of existing incumbents	"	10
inquiry and trial in case of European British subjects	"	11
may call for police case diaries	"	126
open	"	187
appeals against convictions by, for contempt ...	"	268
powers of, in regard to enforcing recognizances and bail-bonds	"	398
when may receive money or government promissory notes in lieu of bail	"	399
may pass orders for disposal of property brought before them ...	"	418
power to punish certain contempts; record what to contain	"	435
certain contempts by European British subjects	"	438
when may order restoration of possession of immoveable property	"	534
CRIMINAL FORCE, person convicted of dispossessing another of immoveable property by,—restoration ...	X	534
CRIMINAL INTIMIDATION may be tried summarily	X	222
mode of recording evidence if not tried summarily	"	333, 336
charges of, ...	"	439, ill. (*c*)
joinder of charges of, ...	"	454, ill. (*g*)

	Act.	Sec.
CRIMINAL JUDICATURE in the Panjáb	IV	39
CRIMINAL JURISDICTION over European British subjects ...	X	71—88
'European British subjects' defined	"	71
officers who may inquire into and try offences committed by European British subjects	"	72
who may hear complaint and issue process ...	"	73
magistrates of first class, being European British subjects and justices of the peace, may inquire into complaints against European British subjects ...	"	74
when such magistrate may try, and extent of his jurisdiction	"	74
when commitment to be to court of session ...	"	75
when commitment to be to high court	"	75
jurisdiction of court of session	"	76
when sessions judge finds his powers inadequate ...	"	76
procedure when sessions judge is not a European British subject	"	77
mode of conducting trials by court of session ...	"	78
appeal from conviction of such subject by magistrate	"	79
court of session	"	80
right of European British subject under detention to apply for order to produce his person ...	"	81
procedure on such application	"	81
power of high courts as to issue of writs ...	"	82
procedure on claim of European British subject to be dealt with as such	"	83
failure to plead status a waiver	"	84
trial of person not a European British subject under this chapter	"	85
procedure of high courts	"	86
proceedings against European British subjects to be regulated by Act	"	87
place of confinement	"	88
of Bombay high court over European British subjects, saving of, ...	XX	1
CRIMINAL LAW of British India extended to British subjects in native states	XI	8
CRIMINAL MATTERS, powers of judicial commissioner in, ...	VII	9
CRIMINAL MISAPPROPRIATION where triable	X	67, ill. (*e*)
CRIMINAL PROCEDURE, see *Code, Criminal law, Law.*		
CRIMINAL PROCEEDINGS, statement exposing to, ...	I	32, par. (3)
husband or wife of accused competent witness in, ...	"	120
relevancy of bad character in, ...	"	54
good character in, ...	"	53
previous conviction in, ...	"	54
See *Confession.*		
CRIMINALS, Act to provide for extradition of, ...	XI	
CRIMINAL TRIALS to be held before courts specified by Act or by special law according thereto	X	7
CRIMINATING ANSWER, witness not excused from answering on ground of, ...	I	132—147
CRIMINATING DOCUMENT, production of, ...	I	130
CRIMINATING QUESTIONS, person not bound to answer, ...	X	118, 119, 134
CROPS, contract to sell future, ...	IX	87, ills. (*b*),(*c*)
disputed possession of, ...	X	530, 531
CROSS-EXAMINATION of witness, meaning of, ...	I	137
must relate to relevant facts ...	"	38

	Act.	Sec.
CROSS-EXAMINATION (*concluded*)		
of witness not confined to facts upon which examined in chief	I	138
on new matter introduced in reexamination	"	138 139
producing document	"	140
as to character	"	145
as to previous written statements ...	"	145
when they must be produced...	"	143
leading questions may be asked in, ...	"	146—150
questions to test veracity, &c.	"	
not to be asked without reasonable grounds	"	149
when court may report asking of question to high court ...	"	150
upon answer to judge's question, when permitted	"	165
upon writing with which he refreshes memory	"	161
accused's right of, in inquiries ...	X	191
of witnesses before court of session ...	"	247
CROSSING of rivers and streams on buoys or skins, regulation of,	IV	47
CRUELTY, habitual, valid excuse for wife refusing to live with her husband	X	536
CULPABLE HOMICIDE may be inquired into and tried where fatal blow was given, or where deceased died in consequence thereof	X	65, ill. (*a*)
form of charge of, ...	"	sch. III
and murder, forms of charges of, ...	"	sch. III
CULTIVATION, see *Poppy*.		
CURATOR chargeable with income-tax	VIII	17
to furnish statements of income and of persons represented	"	18
may retain duty	"	20
penalty on, for default	"	36
CURRENCY of sentence on escaped convict	X	316
on person sentenced for other offence ...	"	317
CUSTODY of lunatic accused of non-bailable offence ...	X	426
of person acquitted as insane, but who committed act...	"	430
warrant of commitment to,—forms	"	303
of registers, &c., person having, to allow searches and give copies	XV	79
certified copies signed by person having, to be evidence ...	"	80
See *Register-book, Warrant*.		
CUSTOM, relevancy of facts where question is as to existence of, ...	I	13
relevancy of opinions as to existence of general, ...	"	48
not contrary to justice, equity and good conscience and not declared void, to be rule of decision in certain cases...	IV	5 (1)
exception as to native law modified by, ...	"	5 (2)
or contract showing that pre-emption does not exist ...	"	11
exception as to law opposed to, ...	VII	6
See *Law or custom, Local custom, Question of law, &c.*		
warranty of goodness or quality may be established by implied, ...	IX	110
when agent to conduct principal's business according to, ...	"	211
of trade saved	"	1
to employ sub-agents	"	190

	Act.	Sec.
CUSTOM-HOUSE at Rangoon, saving of goods in transit from, ...	XXIII	6, par. 2
CUSTOMS, pre-emption presumable whether recorded or not in list of, ...	IV	11
See *Collector of customs, Commissioner, Inland, Officer of customs, Rites.*		
CUSTOMS DEPARTMENT, members of preventive service exempted from serving as jurors or assessors ...	X	406
DÁKÁITÍ where triable	X	68
with murder where triable	"	68
form of charge of, ...	"	sch. III
DÁKÁITS, offence of belonging to gang of, where triable ...	X	67, ill. (*c*)
DAMAGE caused by non-fulfilment of contract	IX	75
to goods, when buyer bears loss from, ...	"	86
to goods bailed	"	152
See *Compensation, Injury.*		
DAMAGES, relevancy of facts in, suits for, ...	I	12
relevancy of character as affecting, ...	"	55
statement exposing to suit for, ...	"	32, par. (3)
in case of frivolous protest	XV	49
DANGER to human life, orders to prevent, ...	X	518
DANGEROUS CHARACTER, binding of, to be of good behaviour ..	X	505
desperately dangerous	"	506
DATE to marginal entry in correction of error	XV	78
of importation to be stated	XXIII	sch.
DAY excluded in reckoning time allowed for appeal	VII	28
of marriage to be entered	XV	schs. III & IV
DAYS, see *Time.*		
DEAD person, statement of, see *Relevant facts.*		
DEATH, statement relating to cause of, ...	I	32, par. (1)
of man known to have been alive within thirty years, burden of proving, ...	"	107
of man who has not been heard of for seven years, burden of proving life	"	108
sentences of, passed by recorder to be confirmed ...	VII	53, 57
powers of special court in respect of sentences of, passed by recorder	"	74
amendment of assessment in case of, ...	VIII	37
of proposer, effect of,...	IX	6, cl. (4)
effect of ignorance of, ...	"	20, ills. (*b*), (*c*)
of surety revokes continuing guarantee	"	131
of bailor or bailee ends gratuitous bailment	"	162
of principal or agent	"	201
agent's duty on termination of agency by principal's, ...	"	209
of one partner dissolves the partnership	"	253, cl. (10)
commutation of sentence of, ...	X	322
inquest by magistrate into cause of, ...	"	135
offences punishable with, not triable by specially empowered magistrates	"	36
pregnant woman sentenced to,—procedure	"	306
sentence of, may not be passed by assistant sessions judge	"	18
sentence of,—procedure as to appeal	"	271
sentence of, by court of session to be referred; reasons for abstaining from passing, ...	"	287
sentence of, to direct hanging	"	321
sudden or unnatural, information regarding,... ...	"	90
unnatural or sudden, inquiry into, by police	"	133, 134
of persons married, correction of errors how to be made in case of, ...	XV	78
DEATHS, see *Registrar-general.*		

	Act.	Sec.
Debtor may petition for adjudication of insolvency ...	IV	23
may be required to give statement of assets and liabilities	"	24 (1)
proclamation for persons to record claims against, ...	"	24 (2)
registry of claims recorded against, ...	"	24 (3)
may be required to give security	"	24 (4)
order for confinement of, in civil jail	"	24 (5)
attachment of moveable and immoveable property of, ...	"	
order for exemption of person and property of, from legal process	"	24 (6)
when to be deemed an insolvent	"	24, (6) 2
inquiry into debts and conduct of, and imprisonment in case of misconduct	"	25
fraudulent transfers by, may be annulled	"	26
Debts of partnership, payment of, ...	IX	262
of partners, payment of, ...	"	262
See *Agreement, Debtor.*		
Deceased partner, non-liability of estate of, for subsequent obligations of firm	IX	262
See *Representative.*		
Deceit	IX	17
Decision, reversal of, see *Reports of decisions, Reversal of decision.*		
or order appealed against, time for appeal to reckon from date of, ...	VII	28
of lower court when confirmable without summoning respondent	"	30
of court in case of difference of opinion	"	66
of differences as to partnership matters	IX	254, cl. (5)
in cases tried with assessors vested in judge ...	X	262
on petition by parties intending marriage	XV	43, 45, 46, 47, 48
See *Appellate court, Commissioner, Court.*		
Decisions in certain cases to be according to native law ...	IV	5
in cases not specially provided for	"	6
passed in appeal, second appeal from certain, ..	VII	33
of first appellate court when final	"	34
Declaration, before marriage, by parties and witnesses ...	III	10
by persons registering marriages	"	20
penalty for signing, &c., containing false statement	"	21
in return of income	VIII	23
penalty for failure to deliver, ...	"	38
false statement in, ...	"	39
by person intending marriage, certificate of making of, ...	XV	17
to be made before issue of certificate ...	"	18
by judge on petition by parties intending marriage	"	45, 48
on petition by registrar doubting authority to forbid certificate	"	48, cls. 4, 7
to be made in course of marriage ceremony ...	"	51, cl. 5
to each other at marriage of native christian ...	"	60 (3)
Declarations at marriage, native christian to be enabled to understand, ...	XV	58
Declaratory decree, suit for, by objector to marriage ...	III	7, cl. 2
Decree in favour of person claiming pre-emption	IV	17
what to specify, and when to become void	"	18
by court making reference, contingent on opinion of superior court	VII	48

	Act.	Sec.
DECREE, (*concluded*)		
order under Act to have force of, ...	VIII	36
See *Declaratory, Judgments, Order, Sales.*		
DECREES affecting land, duty of judges as to, ...	IV	21
of special court in cases referred	VII	72
sales in execution of, ...	VIII	36 (*a*)
arrests in execution of, ...	"	36 (*b*)
execution of, by imprisonment	"	36 (*c*)
out of issuer's jurisdiction	"	36 (*e*)
DEDUCTION of tax in case of government officials and pensioners	VIII	7
servants and pensioners of companies and municipalities ...	"	8
payment of, to government	"	8
subsequent, of duty omitted to be levied ...	"	9
of tax on interest of securities	"	14, 15
penalty for failing to make, ...	"	38
DEEDS, title, of witness not a party, production of, ...	I	130
DEFAMATION, offence of, not to be taken cognizance of without complaint	X	142
DEFAULT of appearance of accused; procedure to recover penalty of bail-bond from accused	X	396
of appearances to recognizances and bail-bonds; powers of criminal courts	"	398
of person summoned to appear; issue of warrant ...	"	156
procedure to recover penalty of bail-bond from sureties ...	"	397
'DEFAULTER' defined	VIII	2
recovery from, of income-tax due	"	36
receipt to, on recovery of tax	"	36
See *Collector, Firm.*		
DEFECT of understanding, procedure where person does not understand pleadings	X	186
when fatal; before trial immaterial	"	283
DEFECTIVE document, exclusion of evidence to explain, ...	I	93
notice in summons case	X	203
DEFECTS, see *Latent defects.*		
DEFENCE of accused by counsel	X	186
person incapable of making, owing to defect of understanding	"	186
list of witnesses for, to be taken on inquiry; further list; witnesses may be heard on inquiry	"	200
and defence-witnesses when to be heard in summons cases	"	207
in trial of warrant case; filing written statement ...	"	218
in trial of warrant case; power to summon witnesses and adjourn	"	219
before court of session	"	251
prejudiced, a reason for setting aside finding ...	"	283
witness, discretional to summon, on inquiry ...	"	357
obligatory to summon, on trial	"	358
in warrant cases	"	362
accused may examine any witness in attendance at court of session; may not call fresh witness	"	363
person incapable of making, owing to lunacy ...	"	423, 425, 428
suspension of trial for, after amendment of charge ...	"	448
accused may summon witness for, on amendment of charge	"	448
DEFENDANT dwelling or working for gain within local limits, jurisdiction depends upon, ...	VII	41
in civil suit against injured person, &c., objectionable juror	X	244

	Act.	Sec.
Definition of European British subjects ...	X	18
of offence, when part must be inserted in charge ...	"	439
of public place	"	521
of summons case	"	147
of warrant case	"	149
of 'coin'	XIX	1
See *Interpretation.*		
Definitions	I	3
	X	4
"Bailable offence or case"	"	4
"Cognizable offence or case"	"	4
"Criminal court"	"	4
"High court"	"	4
"Inquired into"	"	4
"Inquiry"...	"	4
"Investigation"	"	4
"Judicial proceeding"	"	4
"Local law"	"	4
"Magistrate's case"	"	4
"Non-bailable offence or case"	"	4
"Non-cognizable offence or case"	"	4
"Presidency town"	"	4
"Province"	"	4
"Session case"	"	4
"Special law"	"	4
"Summons case"	"	4
"Trial"	"	4
"Warrant case"	"	4
"Written"...	"	
See *Interpretation.*		
De homine replegiando, writ of, not to run beyond presidency towns	X	82
Delay	I	32
witness named to cause,—procedure	X	359
Delegation of powers	VIII	45, 46 (*c*)
of powers of governor general, out of British India, derived by treaty, &c.	XI	pream. 4, 5
of powers of governor general	XV	86
Delirium, inability to contract during, ...	IX	12
Delivery	IX	78
of goods sold, how made	"	90
to wharfinger or carrier	"	91
of goods sold, time of, ...	"	93
possessor of goods may become a bailee without, ...	"	148
to bailee how made	"	149
of thing found on search-warrant by order of any magistrate	X	22, 373, 374, 376
to whom to be made of goods re-imported ...	XXIII	3
penalty for failure to make, ...	"	5
Demeanour of witness, remarks regarding, ...	X	341
Denomination, warranty on sale of goods as being of a certain, ...	IX	113
Deportation, see *Foreign vagrants.*		
Deposit of expenses of witness for defence in non-cognizable summons case	X	361
in sessions case ...	"	359
in warrant case ...	"	362
Depositary, notice to, ...	IX	104
notice of seller's claim to, ...	"	104

BENGAL SECRETARIAT LIBRARY

	Act.	Sec.
DEPOSITIONS, magistrate may grant copies of, free of cost ...	X	201
See *Copies.*		
DEPUTATION of subordinate police officer to investigate ...	X	114
DEPUTY COLLECTORS in charge of sub-divisions within meaning of Acts X of 1859 and XIV of 1863 ...	XXII	1
certain persons to be deemed, ...	„	1
certain persons to be deemed assistants to collectors invested with powers of, ...	„	1
power to define areas over which jurisdiction of, may be exercised	„	3
See *Acts, Applications, Orders, Suits.*		
DEPUTY COMMISSIONER included in 'Collector'	XXII	4
DEPUTY COMMISSIONER, BRITISH BURMA—		
civil jurisdiction of court of, ...	VII	8, table
not to take cognizance of small cause court suits ...	„	8, table
control of, over courts in his district	„	14
DEPUTY COMMISSIONER, PANJÁB—		
copy of decrees affecting land to be sent to, ...	IV	21
may inquire into circumstances affecting jurisdiction of court of wards	„	36
may make order declaring jurisdiction	„	36
appeal from order of, ...	„	37
DEPUTY COMMISSIONERS to be courts of wards	IV	34
appeals against convictions of, ...	X	270
where there are, chief executive district officers may be invested with certain powers	„	36
DEPUTY COMMISSIONERS, BRITISH BURMA—		
control of commissioner over courts of, ...	VII	14
may be invested with small cause court judge's powers ...	„	17
to appoint certain ministerial officers	„	24
power of, to reverse or modify orders of subordinate courts, imposing fines on ministerial officers ...	„	25, (cl. 2)
power of, to remove, suspend or fine ministerial officers of subordinate courts	„	25, (cl. 2)
second appeal from certain decisions of, ...	„	33
DEPUTY JAILOR, when warrant of commitment may be lodged with,	X	304
DESCENDANTS, see *Christian descendants.*		
DESCENT, rule of, in families of assigness of land-revenue ...	IV	8
DESCRIPTION of packages	XXIII	sch.
DESERTERS from British merchant ships, arrest of, ...	X	106
from Her Majesty's army, arrest of, ...	„	92
DESIGN to commit cognizable offence, arrest of person for, ...	X	97
report of, ...	„	97
DESIGNS, see *Patterns.*		
DESPERATELY dangerous character, binding of, to be of good behaviour	X	506
DESTROYING register, counterfoil, certificate or extract, penalty for,	XV	75
DESTRUCTION of goods, when buyer bears loss from, ...	IX	86
of goods bailed	„	152
of goods bailed and not duly returned, bailee's responsibility for, ...	„	161
DETACHMENT, see *Medical officer, Officer commanding.*		
DETENTION of lunatic	X	433
of offenders attending court	„	104
of person suspected of non-cognizable offence ...	„	93
of person attempting to injure public property ...	„	98
of person, report of, to be made to magistrate of district or magistrate of division of district ...	„	132

	Act.	Sec.
DETENTION (*concluded*)		
in police custody, power to order, inherent in all magistrates	X	22
in police custody not to exceed twenty-four hours, except under order of magistrate	"	124
of Queen's evidence	"	347
of recusant prosecutor or witness	"	360
DETERIORATION of thing bailed	IX	152
of goods bailed and not duly returned, bailee's responsibility for, ...	"	161
DEVOLUTION of joint liabilities	IX	42
of joint rights	"	45
DIARY, POLICE, of cases, what to contain, and use which criminal courts may put them to	X	126
to contain list of articles taken from person searched	"	387
DIARY, STATION, non-cognizable complaints to be entered in, ...	X	113
DIET, see *Confinement*.		
DIFFERENCE of opinion, decision of court in case of, ...	VII	66
rules as to finding of special court in case of, ...	"	75
between magistrates sitting as a bench to be decided by rule	X	52
procedure where court differs from verdict of jury	"	263
how decided in high court	"	271
between session judge and collector how settled	"	402
DILIGENCE required from agent	IX	212
required from partner	"	254, cl. (4)
DIOCESE, see *Bishop, Registrar, Roman catholic.*		
DIPLOMATIC AGENT, certificate by, ...	I	78
DIRECTION by court of session to jury to acquit	X	251
of search-warrant to magistrate in whose jurisdiction it is to be executed	"	372,376
of warrant to several persons	"	164
of warrant to police officer	"	165
See *Warrant.*	"	
DISABILITY to perform promise	IX	39
DISBURSEMENTS of agent	IX	221
DISCHARGE, insolvent may be imprisoned in case of opposition to his, on certain grounds	IV	25
when court may order insolvent's, ...	"	29
effect of order of, ...	"	29
proviso as to property acquired after, ...	"	29
of surety by variance in terms of contract... ...	IX	133
by release or discharge of principal debtor ...	"	134
of principal debtor discharges surety	"	134
by creditor corresponding with, or giving time to principal debtor	"	135
not when contract to give time is made with third person	"	136
of surety by creditor's act or omission impairing surety's eventual remedy	"	139
See *Composition.*		
of accused on withdrawal of charge by public prosecutor during inquiry	X	61
of accused on inquiry; absence of complainant; effect of order; when order may be made	"	195

	Act.	Sec.
DISCHARGE (*concluded*)		
of accused in warrant trial; absence of complainant; effect of discharge; when order of discharge may be made	X	215
of lunatic prisoner	„	433
of offender in contempt on submission or apology ...	„	436
of person apprehended by police	„	132
of person unable to bear entire sentence of whipping	„	313
of person furnishing bail	„	394
of person instead of binding him to keep the peace ...	„	496
of persons confined in default of furnishing security to be of good behaviour...	„	511, 512
power of revision-court to order trial or commitment of person discharged	„	297
of recognizances and sureties to keep the peace ...	„	500
of surety, procedure to obtain, ...	„	395
of surety to bond to be of good behaviour ...	„	513
of lunatic from asylum	XXI	4, para. 2
DISCIPLINE, see *Confinement.*		
DISCLOSURE of faults in goods bailed	IX	150
arrested person not to be induced to make, ...	X	184
no inducement to be offered	„	344
DISCOVERY of essential thing, or thing which would facilitate discovery of offender, search-warrant for, ...	X	368
DISCRETIONAL with court to record particular question or answer...	X	338
to summon defence-witness on inquiry...	„	357
DISEASE of body or mind, person affected with, when incompetent as witness	I	118
DISHONEST concealment from principal	IX	215
DISMISSAL, no appeal against order of, ...	X	286, ill. (*b*)
of complaint	„	147
of complaint in absence of complainant on adjourned summons trial...	„	208
of complaint as frivolous or vexatious	„	209
of complaint, certain courts may order inquiry on, ...	„	298
of summons case...	„	205
of summons case equivalent to acquittal ...	„	212
DISOBEDIENCE of order of public servant; charge	X	451, ill.
DISOBEYING direction of law, charges of,...	X	441, ill.(*f*)
DISPENSING with performance of promise	IX	63
DISPERSION of unlawful assemblies		480—88
See *Unlawful assemblies.*		
DISPOSAL, see *Register-book.*		
'DISPROVED,' when a fact is, ...	I	3
DISPUTE, see *Arbitration.*		
DISPUTES regarding possession of land, &c.	X	530
right of use of land or water, &c. ..	„	532
See *Possession.*		
DISQUALIFICATION from contracting	IX	11
DISQUALIFICATIONS, list of, in case of jurors or assessors .	X	405
DISSOLUTION of a partnership by any member ceasing to be so ...	IX	253, cl. (7)
death of any partner ...	„	253, cl. (10)
order of the court	„	254
prohibition of its business ...	„	255
notice of, ...	„	264
DISSOLVED, see *Marriages.*		
DISTILLERIES, see *Spirits.*		
DISTINCT offences to be charged and tried separately... ...	X	452

	Act.	Sec.
DISTRESS, undue influence in case of person whose mind is enfeebled by, ...	IX	16
and sale of complainant's moveable property ...	X	209
and sale of moveable property under levy of fine; warrant	"	307
DISTRIBUTION of business, power of deputy commissioner to direct, ...	VII	8, table
of business by localities	X	49
DISTRICT, territory for which registrar appointed to be called his,	III	3
in which one of the parties to intended marriage has resided, registrar of, to receive notice	"	4, cl. 2
execution of warrant of arrest within or without, ...	X	167
search-warrant runs throughout, ...	"	368
transfer of marriage-register-book on removal from, ...	XV	37
of marriage registrar, residence within, ...	"	42 (*b*)
to be stated	"	schs. I & II
See *Chief revenue charge, General officer.*		
DISTRICT GAZETTE, arrest of person proclaimed in, ...	X	92
DISTRICT JUDGE, powers of, to be exercised by certain courts ...	VII	8, table
recorder to exercise powers of, ...	"	44
his jurisdiction to wind up partnership ...	IX	263, excep.
petition to, by parties intending marriage ...	XV	45, 46
procedure of, on such petition	"	45, 46
petition to, by registrar doubting authority to forbid certificate	"	48
procedure of, on such petition	"	48
liability for protest declared by, to be frivolous	"	49
power to declare who, in any place, is, ...	"	85
DISTRICTS, see *Sub-divisions.*		
DISTRICT SUPERINTENDENT OF POLICE, control over assistant, ..	X	138
may give notice to postal authorities to detain letter...	"	369
'DIVISION,' substitution of, ...	XXV	1 (*h*)
See *General officer.*		
DIVISIONS of time when judicially noticed	I	57
sessions, to be formed	X	12
of district, power to create and alter, ...	"	39
DIVORCE ACT to apply to marriages under Act	III	17
recorder to exercise powers of district judge under,	VII	44
DOÁB, see *Ságar, Sindh.*		
DOCK-WARRANT, title conferrible by possessor of, ...	IX	108, excep. 1
pledge by possessor of, ...	"	178
'DOCUMENT' defined	I	3
used in commerce	"	32, par. (2)
contents of, how proved	"	61
private, ...	"	75
presumptions as to, ...	"	79—90
produced by witness, translation of, ...	"	162
when court may inspect, ...	"	162
when referring to matters of state	"	162
on notice, party producing, entitled to have it in evidence	"	163
production of, which another person, having possession, could refuse to produce	"	131
by witness	"	162
refused	"	164
power of judge to order, ...	"	165

	Act.	Sec.
'Document' (*concluded*)		
used by witness to refresh memory, production of, to adverse party...	I	161
See *Evidence, Presumption, Production of document, Question of law.*		
Documentary evidence	I	61—90
defined	"	3
exclusion of oral by, ...	"	91—100
securing, ...	X	365—367
Documents, public, ...	I	74—78
to accompany appeal	VIII	32
persons may be required to produce, ...	"	33
See *Collector.*		
duty of judge to decide on meaning and construction of, ...	X	256
impounding and restoration of, ...	"	367
sanction to prosecute certain offences relating to, when given in evidence	"	469
search-warrant to discover, ...	"	366
summons to produce, ...	"	365
translation of, for formal proof	"	340
Dominions of princes and states in India in alliance with Her Majesty, Act extends to European British subjects in, ...	XI	1
denoted by 'Native state' in reference to European British subjects	"	3
of princes and states in alliance with Her Majesty, Act applies to all subjects of Her Majesty in, ...	XII	1
of native princes and states in alliance with Her Majesty, Act applies to Queen's subjects in, ...	XXI	1
See *Executive.*		
Door, breaking of, in executing search-warrant	X	383
warrant of arrest	"	180
Doubt as to certain questions, reference to superior court in case of, ...	VII	31, 47
Doubtful, when doubtful what offence committed, mode of charging	X	455
Doubts as to exercise and delegation of powers of governor general, out of British India, derived by treaty, &c. ...	XI	pream.
Dower, rule of decision in questions as to, ...	IV	5
Drunkenness, inability to make contract during, ...	IX	12
Dues in respect of goods not cleared	XXIII	4
Dumb-witness, mode of giving evidence by, ...	I	119
Duplicate, summons to be in, ...	X	152
certain marriages to be registered in, ...	XV	32, 54
search for, ...	"	79
certified copy of, to be evidence	"	80
certificate to be made out in, ...	XXIII	2, para. 2
to whom to be given	"	2, para. 2
Duplicates, fees for searching, ...	XV	82, cl. 4
copies of entries in, ...	"	82, cl. 5
Duties on offices	VIII	5—9
on profits of companies	"	10—13
on interest of securities	"	14, 15
on other incomes	"	16—29
payment and recovery of, ...	"	35—37
See *Administrator, Collector, Executor, Income tax, Taxes.*		
of trade saved	IX	1

	Act.	Sec.
DUTY omitted to be levied, subsequent deduction of, ...	VIII	9
See *Income tax, Obligation.*		
of person to obey magistrate's order to arrest	X	108
of person residing in house to admit server of warrant ...	"	179, 382
of public in regard to offences	"	89—91
of public generally to report certain offences	"	89
of public to assist magistrate or police officer on certain occasions	"	91
of village authorities, landholders, &c., to report certain offences	"	90
on English spirits manufactured in Burma	XVI	2
to vary according to strength of spirits	"	2, cl. 2
legalization of prior levy of, ...	"	3, cl. 2
to be paid on goods for re-importation	XXIII	3, para. 2
on goods cleared for home consumption	"	6
on poppy cultivation	XXVI	3
DWELLING, notice of marriage in private, ...	XV	14
marriage not void for irregularity as to statement in regard to, ...	"	77 (1)
See *Contents, Particulars.*		
DWELLING-PLACE to be stated	XV	sch. I
See *Contents, Particulars.*		
DYING DECLARATION, proof of, ...	I	104, ill. (*a*)
police officer may give evidence of, ...	X	121
EARNEST	IX	78
EDUCATION, jurisdiction of court of wards as to, ...	IV	38
EFFECT of relevant facts or facts in issue...	I	7
of certain irregularities	X	32—34
of warrant of arrest	"	159
of withdrawal of charge by public prosecutor ...	"	61
ELECTION to ratify or disown acts	IX	196
of European or American to be tried with assessors when proper jury not obtainable	X	408
EMERGENCY, agent's authority in, ...	IX	189
EMIGRATION to straits settlements, power as to exemption of, from Emigration Act	XIV	1
bar of proceedings in respect of, ...	"	2
EMPLOYED by injured person, &c., ground of objection against juror	X	244
ENACTMENT, see *Legislative enactment.*		
ENACTMENTS in force in Panjáb	IV	3 & sch. 1.
repealed, see *Acts, Regulations, Statutes.*		
ENDORSEMENT of attachment-order by magistrate of district in which property may be	X	172
of attachment-order in respect of property of absconding witness	"	353
of order of distress and sale to realize compensation	"	209
of order to sell goods and moveable property of person ordered to abate local nuisance ...	"	525
of search-warrant by any magistrate	"	22
of search-warrant by police	"	371
by magistrate	"	372,375,376
of warrant of arrest by any magistrate ...	"	22
of warrant of arrest	"	168,170
of warrant for levy of fine	"	307
of warrant for attachment and sale of property of accused not appearing to bail ...	"	396
of warrant for attachment and sale of property of surety	"	397
of warrant for attachment and sale of property of person bound to keep the peace ...	"	502

	Act.	Sec.
ENDORSEMENT (*concluded*)		
of warrant for attachment and sale of property of surety	X	503
of warrant for attachment and sale of property of surety to bond to be of good behaviour ...	„	514
ENFORCEMENT of order of maintenance	X	536,538
ENGLAND, transmission to, of evidence of certain marriages ...	XV	81
ENGLISH, when evidence taken in, need not be translated ...	X	334
when government may order evidence to be recorded in,	„	335
judgment when to be in, ...	„	463
records of summary trials may be in, ...	„	229
ENGLISH LANGUAGE, procedure when native christian intending marriage does not understand, ...	XV	57
translation of declarations at marriage to native christian who does not understand,	„	58
ENGLISH METHOD, see *Spirits*.		
ENGLISH SPIRITS, see *Duty*.		
ENGRAVED included in 'Written'	X	4
ENHANCED SENTENCE legal in case of conviction for more than one offence	X	314
ENHANCEMENT of sentence by appellate court	X	280
revision court	„	297
ENQUIRY, see *Inquiry*.		
ENTICING away married woman, and adultery, joinder of charges of,	X	454, ill. (*p*)
prosecution for, ...	„	479
ENTRIES, rules regarding, may be made by high court ...	X	292
in marriage-registers	XV	29, 30, 31, 33
to be signed and attested ...	„	33, 54
how to be made	„	33, cl. 2 54, cl. 2
numbers of, to be added to copies of certificates	„	35
numbers of, to be added to certificates	„	36
grant of copies of, ...	„	63
provisions as to, applied ...	„	64
copies of, to be given	„	79
in marriage-registers, certified copies of, to be evidence...	„	80
in registers, &c., fees for copies of, ...	„	82, cl. 5
ENTRY in books of account, when relevant	I	32, par.(2), 34
in public record, &c., made in performance of duty, relevancy of, ...	„	35
into house in search of person liable to arrest without warrant	X	100
in margin, errors to be corrected by, ...	XV	78
EPISCOPAL ORDINATION, marriages may be solemnized by persons who have received, ...	XV	5 (1)
registration of marriages by persons who have received, ...	„	32
EQUITY, see *Justice, Questions of fact, &c.*		
ERROR, what kind of, fatal; before trial immaterial	X	283
in judicial proceeding; revision	„	297
in charge, effect of, ...	„	443
application for amendment of, ...	„	444
material, ...	„	451
or defect in judgment immaterial	„	464
See *Irregularity*.		
ERRORS, correction of, ...	XV	78
ESCAPE from custody, offence of, where triable	X	67, ill. (*d*)
from lawful custody, arrest of person making, ...	„	92
See *Arrest, Inhabitants*.		

	Act.	Sec.
ESCAPED CONVICT, currency of sentence on, ...	X	316
warrant of arrest may be directed to landholders for arrest of, ...	"	162
ESTATE, see *Administration, Beneficial interest.*		
ESTATES of females, minors, idiots and lunatics, court of wards may administer, ...	IV	35
See *Insolvent estates.*		
ESTOPPEL, admission may operate as, ...	I	31
defined	"	115
of acceptor of bill of exchange from denying authority of drawer	"	117
of bailee or licensee from denying authority of bailor or licensor	"	117
of licensee of person in possession of immoveable property from denying licensor's title to possession...	"	116
of tenant from denying landlord's title	"	116
EUROPEAN not European British subject, trial of, to be by jury; optional with accused to demand jury in non-jury case	X	234
trial of, with person of other race; jury... ...	"	242
court of session how to obtain jury at trial of, ...	"	408
may elect to be tried with assessors when proper jury not obtainable	"	408
EUROPEAN BRITISH SUBJECTS, recorder may be directed to hold court in certain places for trial of, ...	VII	39, cl. 3
powers exerciseable by recorder for trial of, ...	"	55
commitments of, for certain offences to be made to recorder .	"	55
proceedings in trials of, how regulated	"	56
liability of military officers to serve as jurors for trial of, ...	"	56
meaning of 'High Court' in proceedings against, ...	X	4
offences by, how to be inquired into and tried; applicability of Act to, ...	"	11
criminal jurisdiction over, ...	"	71—88
definition of, ...	"	71
who may inquire into and try complaints against, ...	"	72
any authorized magistrate may entertain complaints against, ...	"	73
process against, before whom returnable	"	73
offence committed by, may, if magistrate's case, be tried by competent magistrate; sentence awardable	"	74
if offence committed by, cannot be adequately punished by magistrate, and is not punishable with death or transportation for life, offender should be committed to court of session; if punishable with death or transportation for life, magistrate should commit to high court ...	"	75

	Act.	Sec.
EUROPEAN BRITISH SUBJECTS (*concluded*)		
trial of, by court of session; power of court to sentence or to transfer case to high court ...	X	76
where sessions judge is not European British subject, session case to be reported to high court ...	"	77
trials of, by court of session how conducted	"	78
may, on conviction by magistrate, appeal to court of session or high court	"	79
may, on conviction by court of session, appeal to high court ...	"	80
may apply to high court for order to test legality of detention ...	"	81
high courts not to issue certain writs beyond presidency towns ...	"	82
procedure on claim of, to be dealt with as such	"	83
failure to plead status a waiver ...	"	84
effect of dealing with person as European British subject who is not one	"	85
procedure of high courts in respect of, ...	"	86
magistrates and courts of session how to proceed	"	87
where to be imprisoned ...	"	88
appeals lie from any sentences on,	"	274
on trial of, exempted persons may be summoned to serve as jurors or assessors	"	406
sane when inquiry is made, but insane when offence was committed; procedure	"	424
may be punished by civil, criminal, or revenue court for certain contempts	"	435
how to be dealt with for contempt of graver character ...	"	436
graver contempts by, cognizable only by magistrate of first class, who is justice of the peace and European British subject; such magistrate may commit ...	"	438
chapter xxxviii (security to be of good behaviour) does not apply to,	"	517
in native states, Act extends to, ...	XI	1
meaning of 'Native state' in reference to, ...	"	3
may be appointed justices of the peace	"	6
saving of Bombay high court's criminal jurisdiction over, ...	XX	1
See *British subjects, Court, Magistrates, Subjects.*		
EUROPEAN COLONIES of Her Majesty, British subjects born, &c., in, are European British subjects ...	X	71
EUROPEAN OFFENDER, penal servitude in case of, ...	XV	68, cl. 2

	Act.	Sec.
European officers, see *Military*.		
European state, see *Ships*.		
European troops of Her Majesty, when and in what manner to disperse unlawful assembly	X	484
Evidence, rules of, repealed	I	2
defined	"	3
of facts in issue and relevant facts	"	5
admissible as to application of language to one of two sets of facts, to neither of which the whole correctly applies ...	"	97
which can apply to one only of several persons or things ...	"	96
as to use of language unmeaning in reference to existing facts	"	95
as to written document or contents ...	"	144
to show meaning of illegible characters, &c.	"	98
when statement forms part of conversation, book, &c.	"	39
documentary, ...	"	61—90
exclusion of oral by documentary, ...	"	91—100
inadmissible as to meaning of language when document applies accurately to existing facts	"	94
of affairs of state, admissibility of, ...	"	123
of attorney, barrister, &c.	"	126—128
of contemporaneous agreement varying terms of document, who may give, ...	"	99
of dumb-witness, mode of giving, ...	"	119
of fact when not admissible under civil procedure law	"	5, exp.
of husband or wife	"	120—122
of oral agreement varying terms of contract, &c., exclusion of, ...	"	92
of parties to suits	"	120
of judge or magistrate	"	121
of public officer	"	124
of magistrate or police officer	"	125
of interpreter	"	127, 128
of terms of contract, &c., in form of document ...	"	91
of witness, when relevant for proving, in subsequent proceeding, truth of facts stated ...	"	33
oral, ...	"	59, 60
oral, must be direct	"	60
oral, proof of facts by, ...	"	59
primary, ...	"	62
secondary, ...	"	63, 65, 66
to explain ambiguous or defective document, exclusion of, ...	"	93
judge to decide admissibility of, ...	"	136
what matters may be proved when relevant statement proved under section 32 or 33	"	158
improper admission of, when no ground for new trial ...	"	167
improper rejection of, when no ground for new trial ...	"	167
marriage-certificate-book admissible as, ...	III	14, cl. 3

	Act.	Sec.
EVIDENCE (*continued*)		
given under certain oath conclusive against person who offered to be bound	VI	4, cl. 4
not inadmissible for omission, substitution or irregularity as to oath	"	5
affecting merits of case	VII	31, 35, 75
persons may be summoned to give, ...	VIII	33
PART VIII, regarding, ...	X	323—87
police abstracts of statements of witnesses not, ...	"	119
of a dying declaration, police officer may give, ...	"	121
any magistrate may record statements or confessions during police investigation...	"	122
mode of recording, by magistrate conducting inquest...	"	135
unnecessary prior to issue of proclamation; statement of magistrate regarding formalities conclusive ...	"	171
answers by accused person on inquiry how far, ...	"	193
necessary for remand	"	194
of complainant and witnesses for prosecution must be taken in warrant cases	"	215
for defence in warrant cases	"	219
of witnesses in summary trials how recorded ...	"	227, 228
examination of accused to be put in at sessions trial .	"	248
given at preliminary inquiry, when may be used at trial	"	249
ordered to be taken or taken by appellate court may be taken in absence of appellant	"	282
admission or rejection of, when fatal	"	283
of jurors and assessors	"	289
special rules of, in criminal cases	"	323—30
of medical witness taken by magistrate may be used, or court may call witness	"	323
accused may be convicted on his own plea ..	"	324
report of chemical examiner may be used as,—genuineness of signature may be presumed	"	325
previous conviction or acquittal how proved ...	"	326
record of, in absence of accused	"	327
convictions on, partly recorded by one officer and partly by another	"	328
commitments on, partly recorded by one officer and partly by another valid	"	329
when commission may issue to take, ...	"	330
mode of issuing commission to take, ...	"	330
prosecutor and accused may examine witness ...	"	330
procedure when commission required in magistrate's cases	"	330
how taken	"	331—41
examination of complainants and witnesses ...	"	331
manner of recording, ...	"	332
in summons cases, and in trials by magistrates of first and second classes of certain offences	"	333
in all other cases before magistrates and in all proceedings before courts of session	"	334
in English, translation of, when unnecessary ...	"	334
memorandum to be made when, not taken down by magistrate or judge	"	334
local government may direct, to be recorded by sessions judge or magistrate himself in his own vernacular, or in English or vernacular of district	"	335
in cases referred to in section 333, magistrate may record, as provided in section 334 or section 335 ...	"	336

	Act.	Sec.
EVIDENCE (*concluded*)		
local government to decide what language is to be held to be in ordinary use	X	337
record to be in narrative form; discretion to take down particular question and answer	"	338
to be read over; may be corrected or memorandum attached; when to be interpreted	"	339
when to be interpreted to accused and when to agent; translation of documents	"	340
remarks regarding demeanour of witness... ...	"	341
Of the Examination of Accused Persons.		
accused may be examined	"	342
accused not punishable for refusing to answer or answering falsely	"	343
no influence to be used to induce disclosures ...	"	344
accused not to be sworn	"	345
examination of accused how recorded; defective record how remedied	"	346
who may tender pardon to accomplice	"	347
high court or court of session may direct tender of pardon	"	348
when magistrate, court of session, or high court may direct tender of pardon; statement under pardon may be used	"	349
certificate of officers appointed under section 432 ...	"	427, 434
of inspector general of prisons or of visitors of lunatic asylums receivable as, ...	"	432
must be taken before person can be bound to keep the peace	"	491
must be taken to prove breach of bond to keep the peace	"	502
in cases of security to keep the peace how taken ...	"	515
in bad livelihood cases how taken	"	515
to be taken if person ordered to abate local nuisance appears to show cause	"	525
question of possession must be decided on, ...	"	530
of marriage, certified copies of entries in registers, &c., to be, ...	XV	80
of certain marriages, transmission of, to England ...	"	81
EXAMINATION, see *Evidence*.		
of witness as to written document or contents ...	I	144
of witnesses, see *Witness*.		
and trial of goods sold with warranty ...	IX	118
accused's right of, in inquiries	X	191
of accused, power as to, of magistrate making inquiry	"	193
of accused before committing magistrate to be put in at sessions trial	"	248
of accused, duty of court of session as to, ...	"	250
of accused	"	342—346
of accused how recorded	"	346
of complainant; procedure in cases transferred ...	"	44
of complainant	"	144
of complainant and witnesses for prosecution in inquiries	"	190
of complainants and witnesses	"	331
of medical witness may be used as evidence ...	"	323
by police	"	119
of witnesses before court of session	"	247

	Act.	Sec.
EXAMINATION (*concluded*)		
of witnesses under commission	X	330
of native officer or soldier reported to be insane ...	XXI	3
EXAMINATION-IN-CHIEF of witness, meaning of, ...	I	137
must relate to relevant facts...	"	138
leading question, when may be asked	"	142
leading question, when may not be asked	"	142
when cross-examination question may be asked in, ...	"	154
EXAMINATIONS of witness, order of, ...	I	138
EXAMINER OF CLAIMS to deduct duty from salaries, &c. ...	VIII	7
EXCEPTION as to marriages to be registered	XV	27
of father from provision as to refusal of consent to marriage	"	45
EXCEPTIONS need not be negatived in charges	X	439
as to time for solemnizing marriages	XV	10
EXCESS paid by assessees, refund of, ...	VIII	32
of agent's authority	IX	227, 228
EXCISE ACT, 1871, Act to be read with, ...	XVI	1
section 21, clauses 2 and 3, applied ...	"	3
effect of certain sections of, in the Panjáb ...	XXVI	3
burden of proof in prosecutions under, ...	"	5
EXCLUSION of evidence to explain ambiguous or defective document	I	93
as to meaning of language when document applies accurately to existing facts ...	"	94
of oral agreement varying terms of written contract, &c.	"	92
to contradict answer to question testing veracity	"	153
of oral by documentary evidence	"	91—100
See *Race.*		
EXCLUSIVE liability of agent or principal	IX	234
right in pattern, &c., held under law of United Kingdom, to be held also in British India	XIII	4
EXCUSE, power to, attendance of person summoned as juror or assessor	X	411, 412
EXECUTION, admission of, by party to attested document ...	I	70
of document, proof of, when attesting witness cannot be found, or execution in the United Kingdom ...	"	69
when attesting witness denies execution	"	71
of document, when attesting witness must prove, ...	"	68
presumption as to, ...	"	89
when to issue in cases referred to high court ...	VII	48, 76
of decrees by imprisonment	VIII	36 (*c*)
out of issuer's jurisdiction	"	36 (*e*)
See *Process, Warrant.*		
PART VII—CHAPTER XXIII, regarding, ...	X	301—22
confinement of youthful offenders in reformatories...	"	318
currency of sentence on escaped convict ...	"	316
form and direction of warrant of commitment ...	"	303
governor general to appoint places to which persons sentenced to transportation may be sent ..	"	319
habitual offenders to be committed for trial or tried by chief executive officer	"	315
imprisonment when fine not paid; limit where magistrate awards substantive imprisonment ...	"	309
levy of fine; scope of section; who may issue warrant	"	307

	Act.	Sec.
EXECUTION (*concluded*)		
local government to direct removal of persons sentenced to transportation	X	319
officer in charge of jail to cause sentence to be executed	"	305
payment of fine in compensation	"	308
postponement and commutation of sentence on pregnant woman	"	306
power to remit punishment with or without conditions; to withdraw pardon; to commute certain punishments	"	322
procedure in cases referred to high court for confirmation	"	301
procedure on sentence by court of session or inferior court; warrant of execution	"	302
procedure where whipping cannot be wholly executed	"	313
punishment not to be inflicted if offender not in fit state of health; stay of execution; not to be executed by instalments	"	312
removal of persons sentenced to transportation when unnecessary	"	320
of search-warrant, see *Search-warrant.*		
of sentence in case of simultaneous conviction of several offences	"	314
of sentence on offender already sentenced for another offence	"	317
of sentence of death	"	321
of warrant of arrest, see *Warrant.*		
warrant with whom to be lodged	"	304
whipping where awarded in addition to imprisonment and appeal lies; delay in inflicting	"	310
whipping how inflicted; magistrate and medical officer to be present	"	311
EXECUTIONS under Act	VIII	36
EXECUTIVE, acts of, how proved	I	78
of any part of British dominions or foreign power, procedure upon requisition of, for extradition ...	XI	14
EXECUTORS, saving of rights, powers and duties of, ...	XX	1
EXEMPTION from Act	VIII	3
of certain steamers from operation of Act ...	XII	1
of straits settlements from Emigration Act ..	XIV	
EXEMPTIONS from service as juror or assessor	X	406
EXHIBITS, see *Copies.*		
EXISTENCE of facts, evidence of, ...	I	5
of foreign state, &c., when judicially noticed ..	"	57
EXISTING judges and magistrates to be deemed appointed under Act	X	10
Ex parte, when orders to prevent obstruction may be passed, ...	X	518, exp. II
EXPENSE	I	32
EXPENSES arising from default of pawner	IX	177
incurred in conducting agency	"	217
of complainants and witnesses, payment of,—rules ...	X	421
of inquiry into local boundary dispute	"	533
of prosecution, compensation for, ...	"	308
of witness for defence in sessions case	"	359
in non-cognizable summons case	"	361
in warrant case	"	362
of lunatic, payment of, ...	XXI	5

	Act.	Sec.
EXPENSES (*concluded*)		
of removing and storing goods to be paid	XXIII	3, par. 2
of sale of goods not cleared	"	4
EXPERIMENTS, accounts of, ...	I	51
EXPERT, definition of, ...	I	45
opinion of, on foreign law, &c., relevancy of, ...	"	45
relevancy of facts bearing upon, ...	"	46
expressed in treatise, when proved by production ...	"	60
may refresh memory by reference to professional treatises	"	159
EXPIRY of term of partnership, subsequent rights and obligations of partner	IX	256
EXPLANATION of fact in issue, fact necessary for, ...	I	9
of ambiguous document, exclusion of evidence in, ...	"	93
of fact in issue, or relevant fact, see *Relevancy of facts.*		
EXPORTATION to King of Ava's territory, goods cleared for, when liable to seizure and confiscation	XXIII	6
saving of certain goods cleared for, ...	"	6, par. 2
EXPRESS promise...	IX	9
warranty of quality	"	116
EXPULSION of a partner	IX	253, cl. (9)
EXTENSION of time for performance of promise	IX	63
of term for which person is bound to keep the peace; procedure	X	499
EXTENT of Act	I	1
... ...	III	1
... ...	IV	2
... ...	VI	2
.. ..	VII	1
... ...	VIII	1
... ...	IX	1
... ...	X	1
... ...	XI	1
... ...	XIII	1
... ...	XV	1
... ...	XVI	1
... ...	XXI	1
... ...	XXII	5
... ...	XXVI	1
EXTORTION, charges of, ...	X	439, ill. (*c*)
offence of, may be inquired into and tried in district where person was put in fear or in which he delivered up property extorted	"	65, ill. (*c*)
EXTRA ASSISTANT COMMISSIONER, FIRST CLASS—		
civil jurisdiction of court of, ...	VII	8, table
not to take cognizance of small cause court suits ...	"	8, prov.
may be invested with power to try suits up to Rs. 5,000 ...	"	16
small cause court judge's powers ...	"	17
EXTRA ASSISTANT COMMISSIONER, SECOND CLASS—		
civil jurisdiction of court of, ...	VII	8, table
not to take cognizance of small cause court suits ...	"	8, prov.
may be invested with power to try suits up to Rs. 5,000	"	16
small cause court judge's powers ...	"	17
EXTRA ASSISTANT COMMISSIONER, THIRD CLASS—		
civil jurisdiction of court of, ...	VII	8, table
not to take cognizance of small cause court suits ...	"	8, prov.
power to appoint and remove, ...	"	22, cl. 2

	Act.	Sec.
EXTRACTS from marriage-certificate-book, fee for, ...	III	14, cl. 3
from marriage-registers, deposit of, ...	XV	62, cl. 2
provisions as to, applied ...	"	64
penalty for destroying or injuring, ...	"	75
penalty for false entry in, ...	"	75, cl. 3
EXTRADITION	XI	11—14
EXTRADITION OF CRIMINALS, Act to provide for, ...	XI	
EXTRAORDINARY expenses	IX	175
partnerships	"	266
risk	"	150
FACT, see *Presumption*.		
admitted need not be proved	I	58
defined	"	3
evidence of, when not admissible under civil procedure law	"	5
FACT IN ISSUE, see *Relevancy of facts*.		
evidence of, may be given in suit or proceeding ...	I	5
FACTORS, their lien	IX	171
FACTS relevant, evidence of, when admissible	I	5
connected with facts in issue	"	6
relevancy of, ...	"	5-16
forming part of same transaction ...	"	6
which are the occasion, cause, or effect of relevant facts, or facts in issue ...	"	7
necessary to explain or introduce a fact in issue or relevant fact	"	9
not otherwise relevant, when they become relevant	"	11
in suits for damages	"	12
where right or custom in question ...	"	13
showing existence of state of mind, body, or bodily feeling	"	14
bearing on question whether act was accidental or intentional	"	15
when course of business concerned ...	"	16
bearing on opinions of experts	"	46
not requiring proof	"	56-58
judicially noticed	"	56
proof of, by oral evidence	"	59
necessary to prove to let in evidence, duty of judge to decide on, ...	X	256
view of, and questions of, to be decided by jury ...	"	257
'FACTS IN ISSUE' defined	I	3
FAILURE to plead status a waiver	X	84
of justice a ground for setting aside finding... ...	"	283
or want of consideration	XVIII	8
FALSE ANSWER by accused person on inquiry	X	193
by accused person	"	343
FALSE CHARGE and giving false evidence, joinder of charges of, ...	X	454, ill. (*d*)
FALSE ENTRY in register, counterfoil, certificate or extract, penalty for, ...	XV	75, cl. 3
FALSE EVIDENCE, alternative charges	X	sch. III
charges of giving, ...	"	441, ill. (*c*)
form of charge of giving, ...	"	sch. III
in a judicial proceeding	XV	39
FALSELY instituting proceedings and false charge, joinder of charges of, ...	X	454, ill. (*c*)
FALSE STATEMENT, penalty for making, &c., certificate or declaration containing, ...	III	21

	Act.	Sec.
FALSE STATEMENT, (*concluded*)		
penalty for making, ...	VIII	39
See *Certificate, Notice, Oath, Personation, Signature.*		
FALSE WEIGHTS AND MEASURES, officer in charge of police-station may search for, ...	X	381
FAMILIES, maintenance of, ...	X	536—538
See *Maintenance.*		
FAMILY, service of summons on adult male member of, ...	X	154
service of summons for juror or assessor on male member of, ...	„	409
See *Descent.*		
FAMILY RELATIONS, rule of decision in questions as to, ...	IV	5
FARMER, warrant of arrest may be directed to, ...	X	162
FASTS, public, when judicially noticed	I	57
FATHER of minor party to marriage to sign declaration ...	III	10
of minor may give consent to his marriage	XV	19, 44
exception of, in certain cases	„	45
name and surname of, to be given	„	schs. III & IV
See *Consent.*		
FAULTS in goods bailed	IX	150
FEE, marriage-notice-book may be inspected without, ...	III	5
to be paid before admission of application for reference ...	VII	35, cl. 2
copy of petition exempt from, ...	VIII	32
on petition to be refunded	„	32
for license as to place for solemnizing marriages ...	XV	11
marriage-notice-book open to inspection without, ...	„	40
for certificate of marriage of native christians	„	61
for copy of entry in register of marriages	„	63
See *Collector.*		
FEES for marriages solemnized out of registrar's office ...	III	12
of marriage registrars to be prescribed	„	14
registrar may demand pre-payment of, ...	„	14, cl. 2
for extracts from marriage-certificate-book	„	14. cl. 3
to trackers	IV	42, para. 3
of advocates, control and taxation of, ...	VII	59
for service and execution of process, power to settle table of,..	„	64
publication of table of, ...	„	64
searches to be allowed and copies given on payment of, ...	XV	79
chargeable under Act	„	82
local government to fix amount of, ...	„	82
power to vary or remit, ...	„	82
power to make rules for disposal of, ...	„	83
power as to native states to prescribe, and to make rules for disposal of, ...	„	84
FEMALE, see *Woman.*		
FEMALES, rule of decision in questions as to special property of, ...	IV	5
See *Estates.*		
FESTIVALS, public, when judicially noticed	I	57
FINALITY of orders on appeal	X	285
FINANCIAL COMMISSIONER, control of, over courts of wards ...	IV	34
FINDER of goods, responsibility of, ...	IX	71
his rights as against their owner	„	168
when he may sell thing found	„	169
FINDING of special court in case of difference of opinion, rules as to, ...	VII	75
power of revision-court to alter, ...	X	297
of not guilty on ground of insanity to state whether accused did act charged	„	429

	Act.	Sec.
FINDING (*concluded*)		
if act was committed; custody	X	430
on points for determination to be recorded in judgment	"	464
See *Judgment, order and sentence.*		
FINE may be inflicted when objection to marriage not reasonable,		9
and be awarded to parties	III	42
on village under track-law	IV	42
in case of stolen property over Rs. 500 in value ...	"	42, par. 3
may be awarded to injured persons	"	50
for breach of rules	"	25, 61
on ministerial officers, power to impose, ...	VII	26
may be recovered from offender's salary	"	38
for default under Act	VIII	20
awardable by magistrates	X	211
sentence of, may be pronounced in presence of agent ...	"	273
only, when no appeal against sentence of, ...	"	274
not exceeding Rs. 200 when not appealable	"	286; ill. (*h*)
no appeal against order imposing, ...	"	307
how leviable under special and local laws	"	308
payment of, in compensation	"	309
imprisonment in default of payment of, ...	"	414
on juror or assessor for non-attendance	"	435
of Rs. 200 for certain contempts	"	536
order of maintenance enforceable as a, ...	"	5
power to recover penalty as if it were a, ...	XII	68, 69, 70, 71,
for offence under Act	XV	73, 74, 75
		79
FINISHING thing contracted to be sold	IX	2
FIRM included in "Person" and in "Defaulter"	VIII	2
meaning of "Collector" in case of, ...	"	3
chargeable with tax, member of, not chargeable ...	"	28, 45
principal place of business of, ...	"	44
service of notices on, ...	"	
See *Principal agent, Principal manager.*		
defined	IX	239
minor's share liable for obligations of, ...	"	247
See *Creditors.*		
FISHERIES, disputed possession of, ...	X	530, 531
FLAG, national, of foreign state, &c., when judicially noticed ...	I	57
FORBEARANCE of creditor to sue principal debtor, effect of, ...	IX	137
'FORBIDDEN' to be written in protest against issue of certificate ...	XV	44, cl. 2
certificate, penalty for issuing, ...	"	71 (4); 72, cl. 2; 73, cl. 7
marriage, penalty for solemnizing, ...	"	73, cl. 8
FORBIDDING of issue of certificate, proviso as to, ...	XV	17, prov. (3) 41, prov. (2)
issue of certificate, setting aside of, ...	"	45, cl. 7; 48, cls. 5, 8
FORCE of warrant of arrest	X	159
of law to rules relating to salt in the Panjáb, Act to give,	XXV	pream.
given to anjáb salt rules by Indian Councils' Act...	"	
See *General officer.*		
FORECLOSURES, see *Mortgages.*		
FOREIGN COUNTRY, arrest of person who has committed offence in,	X	157
procedure on such arrest	"	174, 175
FOREIGN EXPRESSIONS, evidence admissible to show meaning of,	I	98
FOREIGN JUDICIAL RECORDS, presumption as to certified copies of,	I	86
FOREIGN JURISDICTION AND EXTRADITION ACT	XI	

	Act.	Sec.
FOREIGN LAW, relevancy of opinions of experts on, ...	I	45
mistake as to, ...	IX	21
FOREIGN MERCHANT, contract made by agent for, ...	IX	230
FOREIGN POWER, see *Executive, Ships-of-war, Transports.*		
FOREIGN STATES, saving of marriages between subjects of, ...	XV	87
FOREIGN VAGRANTS, powers of magistrate of district as to, ...	IV	45
control, deportation and surveillance of, ...	„	46
FOREMAN of jury by whom appointed; duty	X	246
in nuisance case to be appointed by magistrate...	„	523
FORESTS, see *Hill districts.*		
FORFEITURE, witness not excused from answering on ground of exposure to, ...	I	132, 146, 147
of property, power to adjudge, ...	X	15
FORGED DOCUMENTS, search of house suspected to be used for sale or manufacture of, ...	X	377
using as genuine and using in evidence, joinder of charges of, ...	„	454, ill. (*m*)
FORM of notice of marriage	III	4, cl. 3 & sch. 1
of declaration by parties and witnesses	„	10 & sch. 2
of certificate of marriage	„	13 & sch. 3
of declaration by persons registering marriages ...	„	20 & sch. 4
of annual return	VIII	8
of notice requiring return of income	„	22
of return	„	22
of notice for list of lodgers and employees	„	24
of such list	„	24
of petition	„	30 & sch.
of bond to keep the peace	X	sch. II, (E)
of bond for good behaviour	„	sch. II, (G)
of charge may follow 3rd schedule	„	442
of recognizance to prosecute or give evidence	„	sch. II, (F)
of security to be subjoined to bond of principal ...	„	sch. II, (E)
of security to be subjoined to principal	„	sch. II, (G)
of summons on accused	„	152
of summons on juror or assessor; service	„	409
of summons	„	sch. II, (A)
of warrant	„	sch. II, (B)
of warrant of commitment for intermediate custody ..	„	sch. II, (C)
of warrant of commitment	„	sch. II, (D)
of notice of marriage	XV	12, 38 & sch. I
of certificate of receipt of notice	„	24 & sch. II
or ceremony in solemnizing marriage	„	25, 51
of register of marriages	„	28, sch. III, 29, 31
of marriage-register-book	„	32, sch. IV, 54, 62
provisions as to, applied ...	„	64
of certificate of marriage registrar	„	50 & sch. II
of certificate to be obtained before re-importation ...	XXIII	2 & sch.
FORMAL PROOF, translation of documents put in for, ...	X	340
FORMATION of lists of jurors and assessors and their attendance...	X	400—414
See *Jurors and assessors.*		
FORMS for proceedings, recorder's power to prescribe and alter, ...	VII	63
to be published and then used ...	„	63
not to be inconsistent with law ...	„	63
to be sanctioned	„	63
of notices, &c., power to prescribe, ...	VIII	46

	Act.	Sec.
FORMS, (*concluded*)		
high court may frame certain, ...	X	292
of charges	"	439, sch. III
See *Charge*.		
supply of, ...	XV	50, cl. 2
FORT ST. GEORGE, jurisdiction and procedure of heads of villages and cantonment magistrates in, saved ...	X	541
See *Madras*.		
FRAUD in obtaining judgment may be proved	I	44
See *Compositions, Insolvent*.		
defined	IX	17
consent caused by, ...	"	19
agreement for division of gains acquired by, ...	"	23, ill. (*e*)
absence of, ...	"	116
goods or documents obtained by, ...	"	178
of sub-agent	"	192
of agent, effect of, ...	"	238
of co-partner	"	250
See *Act, Agent*.		
in amount of bail-bond	X	392
FRAUDULENT preference, transfers of property may be annulled for,	IV	26
transfers, see *Debtor*.		
act or omission	IX	17, cl. (5)
consideration or object	"	23
FRAUDULENTLY, acting, a fact	I	3, ill. (*d*)
FREE consent	IX	10
FRIEND, when lunatic may be delivered over to, ...	X	434
FRIVOLOUS, see *Protest*.		
FRIVOLOUS COMPLAINT, dismissal of, ...	X	209
FULL-BENCH, see *Bench*.		
FUNCTIONS of Indian public officers, when judicially noticed ...	I	57
of governor general, delegation of, ...	XV	86
exercise of, in regard to native states in Bombay and Madras	"	86, cl. 2
FURNITURE, agreement for sale of house and, ...	IX	85, ill. 200
FURTHER list of defence-witnesses	X	57, ill.
GAMBLING HOUSE, agreement to sell house to be used as a, ...	IX	30
GAMING	IX	
GANG of dacoits, having belonged to, where triable	X	67, ill. (*c*)
GAZETTE, statement made in, ...	I	37
presumption as to genuineness of, ...	"	81
publication in local official, ...	IV	50, cl. 3
alteration of district-limits to be notified in, ...	VII	63, 64
high court rules to be published in, ...	X	38
publication in, of order directing certain trials to be by jury	"	292
publication in local official, ...	"	233
advertisement in, as to goods not cleared	XVI	2
GAZETTE OF INDIA, notice in, of cession of British territory, proof	XXIII	4
GENERAL CLAUSES ACT, 1868, sections 7 and 8 repealed ...	I	113
GENERAL CUSTOM or right defined	I	2 & sch.
GENERAL EXCEPTIONS need not be negatived	I	48
GENERAL LIEN	X	439
GENERAL OFFICER COMMANDING DIVISION OR DISTRICT OR FORCE—	IX	171
report of insanity of native officer, &c., to be made to, ...	XXI	2
procedure of, thereupon	"	3
may make order for reception of lunatic in asylum ...	"	4

	Act.	Sec.
GENUINENESS of documents, &c., see *Presumption.*		
GEOGRAPHICAL DIVISIONS of the world, when court must take judicial notice of, ...	I	57
GIFT, pre-emption does not affect transfers made in good faith by way of, ...	IV	10
GIFTS, rule of decision in questions as to, ...	IV	5
validity of, saved	IX	25, exp. 1
GODOWN, delivery to purchaser of goods locked up in, ...	IX	90, ill. (c)
GOOD BEHAVIOUR, security to be of, may be demanded by magistrate of first class	X	26
See *Security to be of good behaviour.*		
GOOD CHARACTER, relevancy of, in criminal proceedings ...	I	53
GOOD CONSCIENCE, see *Justice.*		
GOOD FAITH, acting in, is a fact	I	3, ill. (d)
facts showing existence of, ...	"	14
burden of proof where one party stands in position of active confidence	"	111
purchase from joint-owner in possession in, ...	IX	108, excep. 1
act done by agent in, ...	"	223
necessary to render dispersion of unlawful assembly by military force no offence	X	483, 485
See *Gift.*		
'GOODS' defined	IX	76
responsibility of finder of, ...	"	71
exported from Rangoon to territory of king of Ava, re-importation of, ...	XXIII	2
delivery of, ...	"	3
to be retained until payment of duty and expenses ...	"	3, par. 2
procedure in case of non-clearance of, ...	"	4
penalty for non-delivery of, ...	"	5
when liable to seizure and confiscation	"	6
to which section does not apply	"	6, par. 2
See *British territory, Master, Owner, Re-importation, Shipper, Vessel.*		
GOOD-WILL, facts showing existence of, ...	I	14
agreement not to carry on business on sale of, ...	IX	27, excep. 1
GOVERNMENT to supply marriage-notice-books	III	5
rule of descent recognized by, ...	IV	8
land, regulation of use of pasturage or natural products of, ...	"	48
duty leviable on office or employment under, ...	VIII	5
annuities, pensions and salaries paid by, ...	"	5
payment to, of deductions on account of tax ...	"	8
bond given by order of, ...	IX	74
contract with, ...	"	74, exp.
duty of native officers collecting revenue or rent for, as regards report of certain matters ...	X	90
attached property of absconder to be at the disposal of, ...	"	172
unowned property at disposal of, ...	"	417
report to, after inquiry on requisition for extradition	XI	14
may issue warrant for custody and removal of person accused	"	14
dues and charges owing to, in respect of goods not cleared	XXIII	4
See *British government, Local government, Notifications of government, Officer, Principal officer.*		

	Act.	Sec.
GOVERNMENT GAZETTES of local governments, &c., presumption as to genuineness of, ...	I	81
GOVERNMENT OF BOMBAY, power of, to sanction prosecution of magistrate, officer, or soldier in certain cases...	X	488
to send direct to secretary of state certificates of certain marriages ...	XV	81, cl. 3
GOVERNMENT OF INDIA, deduction of duty in case of officials and pensioners under, ...	VIII	7
power of, to appoint and remove judges...	X	9
power of, to sanction prosecution of magistrate, officer, or soldier in certain cases	"	488
GOVERNMENT OFFICER, summons on, to serve as juror or assessor how served	X	411
GOVERNMENT OF MADRAS, power of, to sanction prosecution of magistrate, officer, or soldier in certain cases	X	488
to send direct to secretary of state certificates of certain marriages ...	XV	81, cl. 3
GOVERNMENT PLEADER, notice to, of commitment	X	202
to prosecute before court of session ...	"	235
right of, to object to juror	"	243
to receive notice of appeals in certain cases	"	279
may appear on hearing of appeal ...	"	280
power of, to withdraw charges ...	"	459
GOVERNMENT PROMISSORY NOTES receivable in lieu of bail except in bad livelihood cases ...	X	399
GOVERNMENT SECURITIES, duties on interest of, ...	VIII	14, 15
GOVERNMENT SERVANT, service of summons on, ...	X	158
GOVERNOR GENERAL OF INDIA IN COUNCIL—		
exclusion of race or class from operation of insolvency rules with sanction of, ...	IV	32
saving of privileges granted by, to chiefs in Panjáb ...	"	39
sanction of, to rules under Act	"	50
to republications of rules	"	51
repeal of rules, laws and regulations for Panjáb made by, ...	"	4 & sch. II
saving of oaths and affirmations prescribed by laws not repealable by, ...	VI	6
power of, to fix number of courts of each grade ...	VII	10
sanction of, to fix and vary local limits of jurisdiction of courts	"	11
presiding officers of certain courts to be appointed by,	"	22
of all courts may be suspended or removed by, ...	"	23
of certain courts not removeable without sanction of, ...	"	23, cl. 2
recorder of Rangoon to be appointed by, and to hold office during pleasure of, ...	"	39, cl. 2
local limits of recorder's civil jurisdiction may be varied with sanction of, ...	"	40
provision for discharge of duties of recorder, until successor appointed by, ...	"	60
recorder to keep registers, &c., and submit returns as prescribed, subject to sanction of, ...	"	62
may by order exempt tribe or class from Income Tax Act	VIII	4
may revoke such order	"	4
to prescribe form of return of servants and pensioners	"	8

	Act.	Sec.
GOVERNOR GENERAL OF INDIA IN COUNCIL (*continued*)		
his sanction to rules for assessment	VIII	21
to prescribe form for notice requiring return of income	"	22
for list of lodgers and employees	"	24
power of, to declare principal place of business and principal agent or manager	"	45
power of, to declare residence	"	45
delegation of power to officers appointed by, ...	"	45
may prescribe forms for returns, &c.	"	46
may make rules for guidance of officers and enforcement of Act	"	46
may delegate powers to local government ...	"	46
may empower high courts to issue orders to bring up European British subjects detained in places beyond court's jurisdiction	X	81
may appoint place for transportation	"	319
power of, to pardon and to commute punishment ...	"	322
sanction of, to be obtained to rules for payment of expenses of complainants and witnesses	"	421
power of, to sanction prosecutions	"	465
power and jurisdiction of, out of British India, derived by treaty, &c.	XI	preamble
officer appointed by, to exercise powers, included in 'Political Agent'	"	3
exercise by, of certain powers, in places beyond British India	"	4
delegation by, of such powers	"	4
effect of notification of such exercise or delegation by,	"	5
may appoint justices of the peace in places out of British India	"	6
may direct to what court they shall commit ...	"	6
confirmation of previous appointments by, ...	"	7
extension of criminal law of British India subject to modifications by, ...	"	8
notification by, of law for offence against which, in native state, offenders may be arrested and removed	"	11
disposal of case according to directions of, ..	"	13
may order inquiry on requisition to him for extradition	"	14
power of, to make rules	"	15
power of, to exempt straits settlements from Indian Emigration Act, 1871	XIV	1
power of, to appoint marriage registrars in native states	XV	8
power of, to revoke appointment	"	8, cl. 2
may license, in native states, persons to grant certificates of marriage between native christians ...	"	9
may revoke licenses	"	9, cl. 2
petition to, against refusal of certificate	"	47
reference to, by registrar doubting authority to forbid certificate	"	48
procedure of, on such reference	"	48
to appoint officers to receive certificates from registrars in native states	"	56
certificates to be sent to Home Department of marriages of which the transmission of evidence to England is desired by, ...	"	81
may make rules for native states as to fees, registers, and returns of marriages	"	84

	Act.	Sec.
GOVERNOR GENERAL OF INDIA IN COUNCIL (*concluded*)		
delegation of powers of, to officers appointed by, ...	XV	86
exercise of powers of, as regards native states in Bombay and Madras	"	86, cl. 2
sanction of, to rate of duty on spirits in Burma ...	XVI	2
officer appointed by, to represent British Government	XXIII	1
Panjáb salt rules approved by, ...	XXV	preamble
GOVERNOR OF BOMBAY IN COUNCIL—		
certain officer appointed by, included in 'Political Agent'	XI	3
confirmation of political agents and justices appointed by, ...	"	7
disposal of case of person accused of offence in native state according to direction of, ...	"	13
may exercise, in regard to native states in Bombay, the powers and functions of the governor general	XV	86, cl. 2
GOVERNOR OF MADRAS IN COUNCIL—		
certain officer appointed by, included in 'Political Agent'	XI	3
confirmation of political agents and justices appointed by, ...	"	7
disposal of case of person accused of offence in native state according to direction of, ...	"	13
may exercise, in regard to native states in Madras, the powers and functions of the governor general ...	XV	86, cl. 2
GRADES of courts	X	5
GRAND-CHILDREN, legitimate, of European British subject, are European British subjects	X	71
GRANT, evidence of terms of, when in form of document ...	I	91
examination of witness as to its being in writing ..	"	144
exclusion of evidence of oral agreement varying terms of, when in form of document	"	92
See *Saving, Treaty.*		
GRATIFICATION, accepting illegal,—form of charge	X	sch. III
GRATUITOUS BAILMENT terminated by death of bailor or bailee ...	IX	162
See *Loan.*		
GREAT-GREAT-GRANDFATHER	III	2, 2nd pro.
GREAT-GREAT-GRANDMOTHER	III	2, 2nd pro.
GREGORIAN CALENDAR, age to be reckoned according to, ...	III	2 (2)
GRIEVOUS HURT may be enquired into and tried where person was wounded or laid up	X	65, ill. (*b*)
charges of, ...	"	439, ill. (*b*)
and rescue committed in connexion with each other	"	454, ill. (*a*)
rioting and assaulting public servant, joinder of charges of, ...	"	454, ill. (*f*)
form of charge	"	sch. III
GROSS MISCONDUCT of partner	IX	245, cl. (5)
GROUNDS of opinion, see *Opinion.*		
GUARANTEE, contract of, defined	IX	126
GUARDIAN of minor party to marriage to sign declaration ...	III	10
chargeable with income-tax	VIII	17
to furnish statements of income and persons under guardianship	"	18
may retain duty	"	20
penalty on, for default	"	38
of minor may give consent to his marriage ...	XV	19, 44
See *Consent.*		

	Act.	Sec.
GUARDIANS, breach in respect of consent of, ...	XV	70
GUARDIANSHIP, rule of decision in questions as to, ...	IV	5
HABEAS CORPUS, writ of, not to run beyond presidency towns ...	X	82
HABIT, persons relinquishing worldly affairs by, disqualified from serving as jurors or assessors	X	405
HABITUAL OFFENDER to be committed to court of session	X	315
HANDWRITING, relevancy of opinions of experts on, identity of, ...	I	45
proof of, when necessary	"	67
relevancy of opinions as to, ...	"	47
questions as to identity of, ...	XVIII	4
HANGING, sentence of death to direct, ...	X	321
HEADMEN of villages to assist trackers	IV	41
fine on village if assistance withheld by, ...	"	42
HEAD OF OFFICE, duty of, to serve summons	X	158
HEADS OF VILLAGES, duty of, as regards report of certain matters	X	90
jurisdiction and procedure of, in Madras saved	"	541
HEALTH of person to be whipped to be certified	X	312
orders to prevent danger to, ...	"	518
HEARING petition against assessment to income-tax	VIII	31
no right of, on revision	X	297
HER MAJESTY, deduction of duty in case of officials and pensioners under, ...	VIII	7
See *Convention, Christian subjects, Dominions, European british subjects, Native indian subjects, Native states, Representative, Ships-of-war, Subjects, Transports.*		
HIGH COURT, certain questions asked by attorney, &c., without reasonable grounds. may be reported to, ...	I	150
powers of judicial commissioner over Burma courts	VII	8, table, 9
reference to, by judicial commissioner... ...	"	37
procedure of, on such reference	"	37, cl. 2
appeal to, from decree of recorder	"	42, cl. 2
powers of recorder as to small cause courts ...	"	45
reference to, by recorder	"	47
bench of two or more judges to deal with cases referred to, ...	"	49
procedure of, in cases referred	"	50
revision-powers of, exerciseable by recorder ...	"	54
powers of, exerciseable by recorder for trial of European British subjects	"	55
sentences of death passed by recorder not to be carried out without confirmation of, ...	"	57
appeal to, against withdrawal or suspension of advocate's license	"	58
as court of reference, powers of, exerciseable by special court	"	74
reference to, in case of difference of opinion in special court	"	75
procedure of, on such reference	"	77
inquiry preliminary to commitment to, see *Inquiry (chapter XV)*		
procedure of, in presidency towns not affected by Act except where specially stated	X	1
defined	"	4
referred to	"	5
may accept, in certain cases, commitment made without jurisdiction	"	33

	Act.	Sec.
HIGH COURT (*concluded*)		
may order transfer of cases or appeals or try them itself, adopting procedure of lower court ...	X	64
may decide, in doubtful cases, where inquiry or trial shall take place	"	69
commitment of European British subjects when to be to, ...	"	75, 76
power of, to grant order to bring up European British subjects in custody	"	81
not to issue certain writs beyond presidency towns	"	82
procedure of, in respect to European British subjects	"	86
trying accused, power of, to restore forfeited property	"	173
where it is uncertain to what magistrate arrested offender should be sent, report to be made to, ...	"	174
to make order where accused cannot understand pleadings	"	186
when accused person to be committed for trial by, ...	"	196
when person not European British subject to be committed to, ...	"	197
power of, to quash commitment	"	197
when may use on trial evidence taken on inquiry ...	"	249
power of, to pass judgment on proceedings in jury-case submitted by sessions judge	"	263
when appeal lies to, from sentence of chief executive officer or assistant sessions judge ...	"	270
convictions by sessions judge appealable to, ...	"	271
difference of opinion in, how decided	"	271
appeal against acquittal to lie to, ...	"	272
powers of, on reference, to confirm, annul, acquit or order new trial	"	288
of reference when to consist of two judges ...	"	290
one judge	"	291
power of, to make rules; what rules require sanction of local government	"	292
may call for record of cases	"	294
may order inquiry into dismissed complaint ...	"	298
on revision, to whom to certifiy decision ...	"	299
procedure of, in intimating order in confirmation cases	"	301
to postpone execution of pregnant woman and may commute sentence	"	306
power of, to issue commission	"	330
of revision, power of, to direct offer of pardon ...	"	348
to order commitment on withdrawal of pardon ...	"	349
may direct magistrate to levy penalty due on forfeited bail-bond	"	398
may sanction withdrawal of charges	"	459
power of, to take recognizance to keep the peace ...	"	489
security	"	490
See *Appeals, Reference, Revision.*		
petition to, by parties intending marriage ...	XV	43, 45, 46
registrar doubting authority to forbid certificate	"	48
liability for protest declared by judge of, to be frivolous	"	49
HIGH COURT, BOMBAY, has no jurisdiction in Sindh	V	
saving of probates and administrations granted by, ...	XX	1

	Act	Sec.
HIGH COURT, BOMBAY, (*concluded*)		
saving of criminal jurisdiction of, over European British subjects ..	XX	1
HIGH COURT, FORT WILLIAM, certain questions arising before recorder of Rangoon to be determined according to law administered by, ...	VII	7
HIGHLY improbable	I	11(2)
probable	"	11(2)
HILL DISTRICTS, rules as to forests and jungles in, in force ...	IV	3 & sch. 1
HINDRANCE, see *Impediment*.		
HINDÚ, see *Marriage*.		
HINDÚ LAW, see *Law, Native law*.		
HINDÚS, rule of decision where parties are, ...	IV VII	5 (2) 6
HINDÚ UNDIVIDED FAMILY included in 'Person'.	VIII	2
meaning of 'Collector' in case of, ...	"	2
chargeable with income-tax, member of, not chargeable	"	3
service of notices on, ...	"	44
HIRE, bailment for, ...	IX	150, cl. (2)
HOLIDAYS, public, when judicially noticed	I	57
to be observed in courts, preparation of list of, ...	VII	15
and vacations in recorder's court, list of, to be drawn up for sanction of chief commissioner	"	65
HOME CONSUMPTION, duty on goods cleared for, ...	XXIII	3, para. 2, 6
HOME DEPARTMENT, see *Secretary*.		
HONORARY police officers in Panjáb	IV	40
HORSE, loan of vicious, ...	IX	150, ill. (*a*)
HORSE-RACING, agreements connected with, ...	IX	30
HOSTILITIES between British crown and other states, &c., commencement, &c., of, judicially noticed	I	57
HOURS, penalty for solemnizing marriage out of fixed, ...	XV	69
saving of certain marriages solemnized out of fixed, ...	"	69, cl. 2
HOUSE, owner of, chargeable with income-tax	VIII	21
service by fixing copy to door of, ...	"	44
See *Notice*.		
and furniture, agreement for sale of, ...	IX	85, ill.
occupant of, to witness search	X	385
person in charge of, to allow search-warrant to be executed	"	382
refusal of ingress into,—procedure	"	100
search in, for person liable to arrest without warrant	"	99
search of, in quest of person against whom warrant of arrest has been issued	"	179, 180, 181
search of, under search-warrant	"	368
See *Search-warrant*.		
HOUSE-BREAKER, arrest of reputed, ...	X	94
binding of, to be of good behaviour ..	"	505, 506
HOUSE-BREAKING and adultery, joinder of charges of, ...	X	454, ill. (*n*)
HOUSES on village-site, see *Right of pre-emption*.		
owners of, occupying them how chargeable	VIII	21
disputed possession of, ...	X	530, 531
HOUSE-TRESPASS when may be tried summarily	X	222
mode of recording evidence if not tried summarily	"	333, 336
HUE AND CRY of cognizable offence, power to arrest on, ...	X	92
HUMAN LIFE, orders to prevent danger to, ...	X	518
HURT and assault, joinder of charges of, ...	X	454, ill. (*j*)
and robbery, joinder of charges of, ...	"	454, ill. (*o*)

	Act.	Sec.
HURT (*concluded*)		
may be tried summarily	X	222
mode of recording evidence if not tried summarily ...	"	333, 336
HUSBAND of accused in criminal proceeding competent witness ...	I	120
of party to civil suit, competent witness ...	"	120
or wife living, neither party to marriage to have, ...	III	2 (1)
punishment for marrying again under Act,		16
during lifetime of, ...	"	20 & sch. IV
declaration to be made by, ...	"	244
of injured person, &c., objectionable juror ...	X	
and wife, see *Maintenance*.		
and wife, declaration to each other by, ...	XV	51, cl. 5
or wife living, persons intending marriage not to have, ...	"	60 (2)
and wife, declaration to each other by, in case of native christians	"	60 (3)
and wife, see *Lunatic, Marriage*.		
IDENTITY of thing or person whose identity is relevant, facts establishing, ...	I	9
of handwriting, relevancy of opinions of experts on, ...	"	45
of witness, questions in cross-examination to discover, ...	"	146-150
not to be asked without reasonable grounds ...	"	149
when court may report asking of question to high court ...	"	150
of handwriting	XVIII	4
IDIOCY, see *Jurisdiction of court of wards*.		
IDIOTS, see *Appeal, Estates, Income, Jurisdiction*.		
ILLEGAL consideration or object	IX	23
things, contract containing promises to perform, ...	"	57
substituted for 'criminal' in Evidence Act	XVIII	10
ILLEGIBLE CHARACTERS, evidence admissible to show meaning of,	I	98
ILLEGITIMATE CHILD, maintenance of, ...	X	536
ILLNESS, undue influence in case of, ...	IX	16, cl. (2)
contract when rendered void by, ...	"	56, ill. (*e*)
of officer in charge of police-station; substitute ...	X	136
of marriage registrar, provision in case of, ...	XV	7, cl. 3
ILL-WILL, facts showing existence of, ...	I	14
IMMORALITY of consideration or object of an agreement ...	IX	23
IMMOVEABLE PROPERTY, offer to sell to be made to co-sharers, in case of share in joint undivided, ...	IV	15
in towns, decision of questions between persons claiming pre-emption as to, ...	"	16
situated within jurisdiction of different courts, applications for authority to proceed with suits for, ...	VII	20
recorder's jurisdiction in suits for, ...	"	41
situated only partly within recorder's jurisdiction, provision as to, ...	"	41
new trial in suits relating to, ...	"	46
exemption of, from income-tax ...	VIII	3
See *Debtor, Pre-emption defined*.		
transfer of ownership of moveable property, when sold with, ...	IX	85
when restoration of, may be ordered ...	X	534

	Act.	Sec.
IMPAIRING remedy of surety against principal debtor ...	IX	139
IMPEACHING credit of witness	I	155, 158
IMPEDIMENT to issue of certificate	XV	17, prov. (2), 41, prov. (1)
of kindred or affinity, or other hindrance to marriage	"	18 (*a*), 42 (*a*)
to marriage	"	51, cls. 3, 5,
IMPERIAL GALLON, see *Spirits.*		
IMPLIED PROMISE	IX	9
in contract of guarantee	"	145
IMPLIED REPEALS, operation of, limited	X	2
IMPORTATION, date of, to be entered	XXIII	sch.
IMPORTED by sea	XXIII	3, par. 2
See *Alimentary salt.*		
IMPOSSIBLE act, agreement to do, ...	IX	56
event, contract contingent on, ...	"	32, 34, 35, 36
IMPOUNDING documents	X	367
IMPRISONMENT for breach of rules	IV	50
in execution of decrees, procedure as to, applied ...	VIII	36 (c)
power of sessions judge to pass sentence of, ...	X	15, 76
sentence of, for more than seven years may not be passed by assistant sessions judge ...	"	18
which may be awarded by magistrates ...	"	20
in default of payment of fine	"	20
where offender is European British subject ...	"	74
of European British subjects, places for, to be appointed	"	88
in default by complainant to pay compensation	"	209
for one month, when no appeal against, ...	"	273
in default of payment of fine, no appeal against,	"	273
not exceeding three months, when sentence of, not appealable	"	274
in default of payment of fine, limit on, where substantive imprisonment awarded ...	"	309
in lieu of unexecuted sentence of whipping ...	"	313
limit of fourteen years in sentence of, for more than one offence	"	314
currency of sentence on person undergoing, and sentenced to transportation	"	317
up to one year and three years, in default of entering into recognizance to keep the peace, ordered by magistrate or court of session ..	"	489
in default of furnishing security to keep the peace to be simple	"	497
when to terminate	"	498
See also	"	499
in civil jail in default of payment of penalty of bond to keep the peace	"	502, 503
in default of furnishing security to be of good behaviour may be simple or rigorous .	"	510
in civil jail, of surety to bond to be of good behaviour, in default of payment of penalty .	"	514
with or without hard labour in lieu of payment of maintenance	"	536
See *Civil jail.*		
for offences under Act	XV	63, 69, 70, 71, 73, 74, 75
See *Insolvent.*		

	Act.	Sec.
INADEQUACY of consideration	IX	25, exp. 6
INCAPACITY to give evidence	I	32
of partner	IX	254, cl. (4)
INCIDENTAL, PROCEDURE, TO INQUIRY AND TRIAL	X	388—438
INCIDENTS of contracts saved	IX	1
See *Contract.*		
INCOME, Act for imposing duties on, ...	VIII	2
defined	"	6
exempted from tax	"	16—29
not charged under Parts II to IV, duties on, ...	"	17
of idiots, infants, lunatics and married women how charged	"	17
of non-residents how charged	"	18
statements of, to be furnished	"	21
from land, rules for assessment of, ...	"	25
exempted under section 6 when chargeable	"	26
of past year to be basis of assessment	"	34
overlooked in assessment	"	37
amendment of assessment in case of diminution or loss of, ...	"	37
refund of overpayment in such case	"	
See *Agent, Average, Certificate, Return.*		
INCOME-TAX, deduction of, in case of government officials and pensioners ...	VIII	7
of servants and pensioners of companies and municipalities	"	8
payment to government of deductions on account of, ...	"	8
receipt to be given for, ...	"	28
contents of receipt for, ...	"	29
payment of, when assessment confirmed or enhanced	"	31, 32
when payable	"	35
payment of, by instalments	"	35
recovery of, under revenue-law	"	36
procedure in case of default in payment of, ...	"	36
refund of over-payment of, when income lessens or ceases	"	37
penalty for failure to pay, ...	"	38
See *Administrator general, Agent, Civil employment, Class, Committee, Court of wards, Curator, Defaulter, Firm, Guardian, Hindú undivided family, House, Houses, Manager, Municipality, Non-commissioned officers, Officers, Official trustee, Order, Petition, Privates, Receiver, Refund, Secretary, Shipping companies, Ships, Treasurer, Tribe, Trustee, Warrant officers.*		
INCOME-TAX ACT, exemptions from, ...	VIII	3
power to exempt from, ...	"	4
code of civil procedure applied to orders under, ...	"	36
prosecutions under, to be at instance of collector	"	40
proceeding under, to be judicial proceeding ...	"	41
bar of suit to set aside assessment under, ...	"	42
service of notices under, ...	"	44

	Act.	Sec.
INCOME-TAX ACT, (*concluded*)		
power to make rules under, ...	VIII	46
INCOMPETENCE of court to deliver judgment may be proved ...	I	44
INCONSISTENCY with facts in issue or relevant facts ...	I	11
INCONVENIENCE caused by non-performance	IX	73
INCORPORATED partnerships	IX	266
INCREASE from goods bailed	IX	163
INDECENT questions, when court may forbid, ...	I	151
may not forbid	"	151
INDEFINITE expressions when matter for jury and when for judge's determination	X	257
INDEMNITIES, saving of, ...	IV	39
INDEMNITY under Income-Tax Act	VIII	8, 13, 20
contract of, ...	IX	124
rights of promisee in contract of, ...	"	125
of surety, ...	"	145
to agent against consequences of lawful act ...	"	222
against consequences of acts done in good faith	"	223
as to emigration and contracts for labour ...	XIV	2
as to prior levy of duties on spirits in Burma ...	XVI	3, cl. 2
INDIA, British, Act extends to whole of, ...	I	1
power of government of, to sanction certain prosecutions	X	488
See *British India.*		
INDIAN ARTICLES OF WAR, obedience by officer or soldier to order given in accordance with, no offence	X	486
INDIAN COUNCILS' ACT, 1861, repeal of rules, &c., having force of law under section 25 ...	I	2
course of proceeding of Councils under, judicially noticed ...	"	57
rules, &c., which had force of law under, ...	IV	pream.
saving of oaths and affirmations prescribed by laws not repealable by governor general under, ...	VI	6
rules legalized by, ...	XXV	pream.
INDIAN CHRISTIAN MARRIAGE ACT, 1872	XV	
petitions under sections 45 and 48 of, ...	"	2
INDIAN EMIGRATION ACT, 1871, exemption of straits settlements from, ...	XIV	
INDIAN EVIDENCE ACT, 1872, referred to	X	294
not to affect section 12 of Act XV of 1852...	XVIII	12
INDIAN EVIDENCE ACT AMENDMENT ACT, 1872	XVIII	
INDIAN PENAL CODE, burden of proof that case of accused is within exceptions of, ...	I	105
offence under section 166 of, ...	"	162
section 177 of, applied	VIII	39
sections 193 and 228 of, applied to proceedings	"	41
sections 64, 65 of, applied	X	309
fine imposed under section 172 of, ...	"	354
section 174 of, applicable to jurors in local nuisance cases neglecting their duty ...	"	524
section 188 of, applicable to cases of disobedience of order to abate local nuisance ...	"	525, 526
INDIAN PORT, see *Native passenger ship.*		

	Act.	Sec.
INDIAN PUBLIC OFFICERS, when court must take judicial notice of accession to office, &c., of, ...	I	57
INDIAN SUCCESSION ACT, provisions of, as to construction of wills not affected...	I	100
wills under, how provable	"	91
words substituted for, ...	XVIII	7
INDIRECT loss or damage	IX	73
INDUCEMENT, confession caused by, ...	I	24
of agent or principal to act on belief that principal or agent will be exclusively liable . ..	IX	234
of third persons to believe that acts were within scope of agent's authority	"	237
INDUCEMENTS to confess not to be offered	X	120, 184
INFANTS, see *Income*.		
INFERENCE suggested by fact in issue or relevant fact, facts supporting or rebutting, ...	I	9
from refusal of witness in cross-examination to answer question as to veracity, &c.	"	148
INFIRMITY of body disqualification for service as juror or assessor	X	405
INFLICTION of whipping when imprisonment also is awarded and appeal lies	X	310
mode of, ...	"	311, 312
INFLUENCE not to be used to induce disclosure	X	344
INFORMATION as to commission of offence, magistrate and police officer not compellable to disclose source of, ...	I	125
obtained by agent, consequences of, ...	IX	229
to be given to partner or his representatives ...	"	257
of commission of certain offences	X	89
duty of landholders and others to give certain, regarding particular matters	"	90
of design to commit cognizable offence to be reported by police officer	"	96
of obstruction of search to be sent, in certain cases, to magistrate having jurisdiction	"	100
police officer how to act on receipt of, regarding cognizable offence	"	114
by police when regarded as complaint	"	140
to be sent to magistrate in whose jurisdiction search-warrant to be executed	"	375
on which summons may issue to show cause why bond should not be taken to keep the peace ...	"	491
necessary, on which to base orders to prevent obstructions.	"	518, exp. II
on which magistrate may satisfy himself of existence of breach of the peace	"	530
INFRINGEMENT, in British India, of right to pattern or design, or application thereof	XIII	4
INHABITANTS of village, duty of, under track-law	IV	42
effect of default by, or connivance at offence or escape	"	42
of place to attend as witnesses to search when called on	X	385
INHERITANCE, rule of decision in questions as to, ...	IV VII	5 6
See *Assignment*.		
INITIALS to certificates of marriages	XV	34, cl. 3
to number added to certificate	"	36
INJUNCTION, when magistrate may issue, to prevent danger arising from local nuisance	X	528

	Act.	Sec.
INJURED PERSON, compensation to, ...	X	308
INJURING register-book, counterfoil certificate or extract, penalty for, ...	XV	75
INJURY caused by compositions, proviso as to, ...	IV	28
to person or property, consideration or object of contract involving, ...	IX	23
to goods, when buyer bears loss from, ...	"	86
to persons lawfully employed, orders to prevent, ...	X	518
to public property, police to prevent, ...	"	98
INJUSTICE in making compositions, proviso as to, ...	IV	28
INLAND CUSTOMS, revival of rules pending passage of Act relating to, ...	XXV	pream.
See *Commissioner.*		
substitution of, ...	"	1 (*g*)
INQUESTS may be held by magistrate of district, or magistrate of division of district, or by authorized magistrate ...	X	22—30
may be held by magistrate duly authorized ...	"	135
'INQUIRED INTO' defined	X	4
INQUIRIES by magistrates to be held in accordance with Act ...	X	6
in British India, into crimes committed by British subjects in places beyond British India	XI	9, 10
INQUIRIES AND TRIALS	X	186—265
mode of recording evidence	"	332
witnesses to be procured as in warrant cases; optional to summon defence-witnesses; how to summon supplementary witness	"	357
defence-witnesses to be summoned for trial ...	"	358
refusal to summon defence-witness; deposit of expenses	"	359
recognizances of prosecutors and witnesses; detention in custody of recusant prosecutor or witness ...		360
'INQUIRY' defined	X	4
into offences committed by European subjects to follow chapter vii	"	11
when high or session court may quash commitment and order fresh, ...	"	33
where to be held	"	63
effect of holding, in wrong place	"	70
procedure in respect of persons arrested in court ...	"	104
by magistrate having jurisdiction into case reported by police	"	115
by magistrate into truth of complaint	"	146
See *Place of inquiry and trial.*		
INQUIRY INTO CASES TRIABLE BY COURT OF SESSION OR HIGH COURT	X	189—202
procedure in, ...	"	189
examination of complainant and witnesses for prosecution	"	190
examination to be in presence of accused or agent ...	"	191
accused's right of cross-examination	"	191
power of magistrate to summon and examine any person	"	192
examination of accused; refusal to answer; answers how far evidence	"	193
adjournment of inquiry and remand	"	194
when accused to be discharged; absence of complainant; effect of discharge	"	195
when accused to be committed for trial	"	196
when commitment to be to high court	"	197

	Act.	Sec.
INQUIRY INTO CASES TRIABLE BY COURT &c., (*concluded*)		
commitment may be quashed by high court only ...	X	197
charge to be drawn up and sent with evidence, &c., to court of session or high court	"	198
charge to be furnished to accused	"	199
list of witnesses for defence on trial may be heard on inquiry; further list	"	200
copies of depositions to be furnished to accused ...	"	201
when commitment made, magistrate to give notice to public prosecutor, &c.	"	202
evidence taken on, when may be used on trial ...	"	249
by appellate court, or by order of appellate court ...	"	282, 289
further inquiry ordered by court of reference ...	"	289
into dismissed complaint, certain courts may order, ...	"	298
commitment valid on evidence recorded by more than one officer	"	329
into non-bailable offence, bail during, ...	"	389
into soundness of mind	"	423, 424
by court of session into grounds on which it may be necessary to bind person to keep the peace ...	"	499
into case of person of bad character by magistrate of second class in charge of division of district ...	"	504
of jury in local nuisance case	"	524
local, to determine boundary dispute	"	533
See *Place of inquiry and trial.*		
INSANE, see *Lunatic.*		
procedure where person not, cannot understand proceedings	X	186
INSANITY of proposer, effect of, ...	IX	6, cl. (4)
of person who has contracted to marry	"	56
of principal or agent	"	201
agent's duty on termination of agency by principal's,	"	209
of partner	"	254, cl. (1)
See *Lucid interval, Lunatic.*		
of person whose consent to marriage is required, petition in case of, ...	XV	45
See *Native officers.*		
INSCRIPTION is a 'document'	I	3
INSOLVENCY, amendment of assessment in case of, ...	VIII	37
See *Administration, Compositions, Court, Creditors, Debtor, Discharge, Fraudulent preference, Insolvent, Jurisdiction, Petition, Remedy.*		
of buyer before delivery of goods	IX	96
of buyer, stoppage of goods in transit to, ...	"	99
of principal	"	201
of partner	"	254, cl. (2)
INSOLVENCY-JURISDICTION, relevancy of judgments in, ...	I	41
See *Jurisdiction.*		
INSOLVENCY LAW in presidency towns, saving of admissions to benefit of, ...	IV	30
'INSOLVENT' defined	IV	24 (6) 2
may be imprisoned for misconduct	"	25
sale or administration of property of, ...	"	27
when court may order discharge of, ...	"	29
INSOLVENT ESTATES, see *Administration, Chief court, Rules.*		
INSPECTION by court, production of document for, ...	I	3
of document produced by witness ...	"	162
of marriage-notice-book	III	5
of marriage-certificate-book	"	14, cl. 3

	Act.	Sec.
INSPECTION (*concluded*)		
of lunatic by officer appointed by magistrate or court of session	X	427
of marriage-notice-book	XV	40
INSPECTOR GENERAL OF PRISONS, certificate of officer equivalent to one by, ...	X	427
certificate of, receivable as evidence	"	432
to visit lunatic prisoners in jail at least every six months ...	"	431
INSTALMENTS, payment of income-tax by, ...	VIII	35
times for payment of, ...	"	35
recovery of, ...	"	36
payment by, ...	IX	79, ill.
of whipping illegal	X	312
INSTITUTION, see *Religious usage.*		
INSTRUCTIONS of principal, agent's duty to obtain, ...	IX	214
INSTRUMENTS for coining or forging, search of house suspected to contain, ...	X	377
for weighing, search by officer in charge of police-station for false, ...	"	381
INSUFFICIENT BAIL may be increased	X	392
INSULTING questions, court to forbid, ...	I	152
INTENTION, having an, is a fact	I	3, ill. (*d*)
facts shewing, ...	"	14
of performance, promise made without, ...	IX	17, cl. (3)
to commit non-bailable offence, information regarding, ...	X	90
INTENTIONAL act	I	15
INTEREST, statements against, ...	I	32, para. (3)
See *Regulation I of* 1798.		
on government securities, duties on, ...	VIII	14, 15
pawnee's right to retain goods pledged for, ...	IX	173
ratification implied by acceptance of, ...	"	197, ill. (*b*)
on loan to trader at rate varying with profits ..	"	240
INTERPRETATION of '*Conclusive proof*,' '*Court*,' '*Disproved*,' '*Document*,' '*Evidence*,' '*Fact*' '*Facts in issue*,' '*May presume*,' '*Not proved*,' '*Proved*,' '*Relevant*,' '*Shall presume*' ...	I	3, 4
of '*Insolvent*'	IV	24
'*Pre-emption*'	"	9
of '*Collector*,' '*Company*,' '*Defaulter*,' '*Income*,' '*Magistrate*,' '*Person*'	VIII	2
of '*Agreement*,' '*Consideration*,' '*Contract*,' '*Promise*,' '*Promisee*,' '*Promisor*,' '*Proposal*,' '*Reciprocal promises*,' '*Voidable contract*,' '*Void agreement*,' '*Void contract*'	IX	2
of evidence, when accused may require, ...	X	339, 340
when agent may require, ...	"	340
See *Definition, Definitions.*		
of '*Native state*,' '*Political agent*' ...	XI	3
of '*Native passenger ship*'	XII	2
of '*New manufacture*'	XIII	2
of '*Anglican*,' '*Christians*,' '*Church*,' '*Church of england*,' '*Church of rome*,' '*Church of scotland*,' '*Minor*,' '*Native christians*,' '*Native state*,' '*Roman catholic*' ...	XV	3
of '*Coin*'	XIX	1
of '*Collector*'	XXII	4

	Act.	Sec.
INTERPRETATION (*concluded*)		
of '*Master*', '*Political agent*'	XXIII	1
of '*Opium*'	XXVI	2
INTERPRETER, communication made to, when disclosable ...	I	127
when not disclosable ...	"	127
waiver of privilege ...	"	128
See *Translator*.		
to be bound to interpret truthfully	X	422
INTERROGATORIES, prosecutor and accused may forward, when commission issued	X	330
INTOXICATING DRUGS included in "Opium"	XXVI	2
INTRODUCTION of fact in issue or relevant fact	I	9
of a new partner	IX	253, cl. (6)
INVALIDATE, see *Saving*.		
INVALIDATED, certain marriages not to be, ...	XV	65
INVENTOR of new pattern or design, or application thereof, term for which privilege grantable to, ...	XIII	3
'INVESTIGATION' defined	X	4
effect of holding, in wrong place	"	70
INVESTIGATION BY POLICE	X	109—138
officer in charge of police-station may investigate cognizable offences ...	"	109
what magistrates may order, ...	"	110
effect of order	"	110
saving of powers under local or special laws	"	111
complaint to police how to be treated	"	112
procedure when complaint discloses non-cognizable offence ...	"	113
when local investigation is to be made; jurisdiction to investigate; effect of irregularity	"	114
magistrate having jurisdiction may proceed to enquire	"	115
when local investigation may be dispensed with	"	116, 117
report of abstention from local investigation to be made through superior police officer to magistrate ...	"	117
power to summon and interrogate witnesses	"	118
oral examination by police ...	"	119
no inducement to be offered to accused to confess	"	120
police only to record confession for their own information; may give evidence of dying declaration ...	"	121
powers of magistrates to record statements and confessions ...	"	122
procedure when person arrested appears guilty; duty of subordinate police officer	"	123
accused not to be detained by police more than twenty-four hours without special authority	"	124
procedure where evidence is insufficient	"	125
preparation of police-diaries and use which criminal courts may make of them	"	126

	Act.	Sec.
INVESTIGATION BY POLICE (*concluded*)		
report to be made when investigation is completed	X	127
admission to bail of accused person ...	"	128
bail not to be excessive	"	129
complainants and witnesses to execute recognizances to appear ...	"	130
police not to restrain complainants or witnesses unless they refuse to enter into recognizances	"	131
police to report apprehensions and detentions	"	132
in cases of unnatural or sudden death	"	133
officer in charge of police-station may summon persons to investigate and to give information on inquest ...	"	134
magistrate duly authorized may hold inquest	"	135
substitute for officer in charge of police-station	"	136
powers of superior officers of police ...	"	137
assistant district superintendent may exercise powers of district superintendent of police	"	138
into truth of complaint	"	146
IRRAWADY, see *Collector of customs.*		
IRREGULARITIES which do not vitiate proceedings	X	32
which render proceedings void	"	34
effect of holding investigation, inquiry or trial in wrong place	"	70
effect of dealing with person not a European British subject as a European British subject	"	85
where investigation is held in wrong station, proceedings valid	"	114
neglecting to examine complainant	"	144
defective notice to accused of offence complained of	"	203
omission to prepare charge in trial of warrant-case	"	216
effect of holding trial by jury, instead of with assessors, and *vice versâ*	"	233
nature of fatal,—before trial immaterial ...	"	283
in examination of accused how remedied ...	"	346
effect of errors in charge	"	443
application for amendment	"	444
court of session may frame commitment without charge	"	446
in judgment immaterial	"	464
IRREGULARITY, see *Oath.*		
as to certain matters, marriages not void for, ...	XV	77
ISSUE of marriages under Act, law to apply to, ...	III	18
of process	X	147
JÁGHÍRS, descent of, ...	IV	8
JAIL, officer in charge of, to forward appeal	X	277
to cause warrant to be executed ...	"	305
person in, may obtain copy of judgment *gratis* ...	"	276
JAILOR, warrant of commitment to be directed to, ...	X	303
to be lodged with, ...	"	304
to release person furnishing bail on receipt of warrant ...	"	394

	Act.	Sec.
JAILS in Burma how to be deemed to be situate	VII	78
power of recorder to issue commissions in, ...	"	78
JAINA, see *Marriage*.		
JEWISH, see *Marriage*.		
JHELUM DIVISION, commissioner of inland customs substituted for, ...	XXV	1 (c)
JOINDER of European or American with person of another race; composition of jury	X	242
JOINDER OF CHARGES, separate charges and trials for distinct offences	X	452
more offences than one of same kind, committed within one year of each other, may be charged and tried together ...	"	453
offences connected together may be charged separately, and the charges may be tried together	"	454, I
act falling within two definitions may be separately charged under both, and the charges may be tried together ...	"	454, II
acts severally constituting more than one offence, but collectively coming within definition of one offence, may be charged under each offence, and the charges tried together	"	454, III
when doubtful what offence has been committed, several may be charged and tried together	"	455
when facts appear to cover more offences than one, and it is doubtful which offence should be charged, accused may be convicted of offence not charged ...	"	456
when offence proved is included in offence charged, person may be convicted of offence not charged	"	457
joinder of persons when legal ...	"	458
withdrawal of charges	"	459
JOINDER OF OFFENCES, sentence which may be passed for more than one offence	X	314
JOINDER OF PERSONS when legal	X	458
JOINT BAILORS	IX	165
JOINT DEBTS of partnership	IX	262
JOINT LIABILITIES, devolution of, ...	IX	42
JOINT OWNER, sale of goods by one, ...	IX	108, exp. 2
JOINT-OWNERS, party to sale by, cannot withdraw share and claim pre-emption	IV	19
bailment by one of several, ...	IX	165
JOINT PROMISEES, effect of offer to one of several, ...	IX	38
JOINT PROMISORS, devolution of their liabilities	IX	42
when one may be compelled to perform ..	"	43
when one may compel contribution ...	"	43
effect of releasing one, ...	"	44
JOINT RIGHTS, devolution of,...	IX	45
JOINT SESSIONS JUDGES, appointment and powers of, ...	X	17
JOINT STOCK COMPANIES	IX	266
JOINT UNDIVIDED INTEREST, see *Beneficial interest*.		
JOURNALS, presumption as to, ...	I	81
JOURNEY, offence during, where triable	X	67, ill. (*a*)
JUDGE when compellable to answer question as to conduct or judicial knowledge	I	121

	Act.	Sec.
JUDGE (*concluded*)		
may be examined as to other matters which occurred in his presence	I	121
power of, as to translation of document produced by witness	"	162
must decide upon proved relevant facts	"	165
power of, to compel person to write for comparison ...	"	73
to decide as to relevancy of facts ...	"	136
to inspect document produced by witness ...	"	162
to examine witness and order production of document	"	165
petition to, in certain cases by parties intending marriage...	XV	43, 45, 46
order of, on such petition	"	43, cl. 2; 45, 46
petition to, by registrar doubting authority to forbid certificate	"	48
procedure of, on such petition	"	48
liability for protest declared by, to be frivolous ...	"	49
JUDGE OF THE TOWN OF MAULMAIN—		
transfer of pending civil cases to court of, ...	VII	4
civil jurisdiction of court of, ...	"	8, table
exception of court of, from jurisdiction of commissioner	"	8, table
to have powers of sessions judge	"	9, cl. 3
appeal to special court from decrees of, ...	"	69
JUDGES to decide, in cases not provided for, according to justice, equity and good conscience	IV	6
of civil courts, duty of, as to decrees affecting land ...	"	21
of criminal courts by whom to be appointed ...	X	9
to be deemed appointed under Act	"	10
of high courts not to issue certain writs beyond presidency towns	"	82
may prohibit access to court	"	187
to charge jury	"	255
duty of, ...	"	256
exempted from serving as jurors or assessors ...	"	406
certain offences by, may not be prosecuted except with sanction	"	466
JUDGMENT, fraud or collusion in obtaining, or incompetency of court, may be proved	I	44
when unnecessary in summary trials	X	227
when necessary	"	228
in cases tried with assessors; decision vested in judge	"	261, 262
in cases tried by jury	"	263
or order, copy of, to accompany appeal	"	275
to be furnished to party affected	"	276
power of revision-court to pass, ...	"	297
special, by court of session, on state of accused's mind	"	425
JUDGMENT, ORDER AND SENTENCE	X	461—64
judgment to specify offence; judgment in alternative	"	461
trials with assessors; when judgment pronounced ...	"	462
language of judgment	"	463
judgment or final order what to contain; when to be dated, signed and pronounced; not to be altered; copy to accused; when translated; in jury trials reasons unnecessary to be stated, but heads of charge required; error or defect immaterial	"	464
JUDGMENTS, &c., of courts of justice, when relevant ...	I	40—44
when relevant to bar second suit or trial ...	"	40
in probate, &c., jurisdiction, of what conclusive proof ...	"	41

	Act.	Sec.
JUDGMENTS, &c., (*concluded*)		
in probate, &c., jurisdiction, of relevancy of, ...	I	41
in other than probate, &c., jurisdiction, relevancy and effect of, ...	"	42
other than above, when relevant ...	"	43
must be based upon proved relevant facts ...	"	165
JUDICIAL COMMISSIONER—		
transfer of pending suits, &c., to court of, ...	VII	4
civil jurisdiction of court of, ...	"	8, table
powers of, in criminal matters	"	9
general superintendence over courts vested in, ...	"	14
to prepare list of holidays	"	15
application to, for authority to proceed with certain suits	"	20, cl. 2
trial of appeals to, from judgments passed by himself, or in which he is interested	"	21, cl. 4
excepted from chief commissioner's power to suspend and remove	"	23
appointments of certain ministerial officers to be subject to sanction of, ...	"	24, cl. 3
removal and suspension of certain ministerial officers to be subject to review of, ...	"	25, cl. 3
power to transfer civil appellate jurisdiction to and from, ...	"	29
reference to, in case of doubt as to certain questions ...	"	31
procedure of, on such reference...	"	32
second appeal to, ...	"	33
reference to, when first decision confirmed in appeal on question of law or custom, &c.	"	35
procedure of, on such reference	"	36
reference by, to high court	"	37
power to transfer to, cases in which recorder is interested	"	52
jurisdiction of, as to cases transferred	"	52, cl. 2
may be directed to perform duties of recorder in case of absence or vacancy	"	60
and recorder sitting together to form special court ...	"	66
may frame rules for sittings	"	68
appeals to special court to be presented in court of, ...	"	69
and recorder may sit as special court at request of either	"	70
power to refer to special court cases pending before, ...	"	71
rules as to finding in case of difference of opinion between recorder and, ...	"	75
jails in Burma to be deemed to be situate within appellate jurisdiction of, ...	"	78
JUDICIAL NOTICE, facts of which court must take, ...	I	57
facts of which court takes, not necessary to prove	"	56
JUDICIAL OFFICER in native state, power to direct the receiving as evidence of copies of depositions made before,	XI	10
JUDICIAL OFFICERS exempted from serving as jurors or assessors	X	406
JUDICIAL PROCEEDING within meaning of penal code ...	VIII	41
defined	X	4
order passed under section 518 or 519 is not a, ...	"	520
order issued under section 521 is a, ...	"	521
revision of, ...	"	297
JUDICIAL PROCEEDINGS before courts and courts-martial, Act applicable to, ...	I	1
JUNGLES, see *Hill districts.*		

	Act.	Sec.
JURISDICTION, power to invest courts with insolvency, ...	IV	22
saving of previous proceedings in exercise of insolvency, ...	"	33
of court of wards, inquiry into circumstances affecting, ...	"	36
order declaring person subject to, ...	"	36
extent of, ...	"	38
power to make rules as to exercise of, ...	"	38
by reason of place where offence was committed, See *Place of inquiry and trial.*		
over offences punishable under local and special laws how determined	X	7, 8
local, of sessions divisions, may be altered ...	"	13
existing, to continue until altered	"	14
effect of acts without, ...	"	32—34
local, of magistrates of district and of magistrates of divisions of districts, may be prescribed and altered by local government	"	38, 39
over certain offences, or offences generally, in parts of district, or in one or more districts, may be conferred on special magistrates	"	42
in transferred case passes	"	44
procedure where magistrate finds case beyond his,...	"	45
police may pursue person liable to arrest without warrant beyond their local, ...	"	103
to investigate; effect of irregularity	"	114
of superior police officers, powers which may be exercised throughout ,...	"	137
reference duly made, or complaint or police report to competent magistrate, gives jurisdiction to such magistrate to dispose of case	"	141
arrest for offence committed beyond, ...	"	157
procedure on,..	"	174, 175
of court of session	"	231
conviction beyond, to be quashed by appellate court	"	284
revision-court may annul trial by magistrate without, ...	"	297
to punish more than one offence tried at same trial	"	314
magistrate may order execution of search-warrant outside his, either after or without endorsement	"	375
preventive, of magistrates	"	480—538
offences may be tried by court superior to court mentioned in column 7	"	sch. IV, note 3rd
of governor general out of British India derived by treaty, &c.	XI	pream.
See *Deputy collectors, Persons, Powers.*		
JURORS, liability of military officers to serve as, ...	VII	56, cl. 2
service of summons to officers to serve as, ...	"	56, cl. 4
service of summons on, not to follow chapter xii ...	X	158
when to be chosen	"	238
how chosen	"	240
names of, to be called; objections to,—supply of fresh,...	"	243
objections which may be taken to, ...	"	244
to understand language in which evidence is given or interpreted	"	245
absence of,—procedure	"	254

	Act.	Sec.
JUROR (*concluded*)		
or assessors may be examined as witnesses	X	258
to attend at adjourned sitting	"	260
in local nuisance case neglecting duty, punishment of, ...	"	524
JUROR AND ASSESSORS	X	400—14
annual revision of list of, ...	"	403
court of session to summon, by precept to a magistrate; how to choose them	"	407
court of session how to proceed to obtain jury for trial of European or American; when jury not obtained ...	"	408
court of session may summon fresh set of, ...	"	410
court of session may excuse, ...	"	412
form and service of summons on, ...	"	409
list of, attending trials	"	413
penalty on, for non-attendance or unlicensed departure; recovery of fine; imprisonment	"	414
persons between 21 and 60 liable to serve as, ...	"	404
persons disqualified from serving as, ...	"	405
persons exempted from serving; exempted persons may be summoned on trial of European British subject ..	"	406
publication of list; notice that objections will be heard ..	"	401
revision of list; difference of opinion; finality of orders	"	402
service of summons on government or railway officer; court may excuse such person	"	411
sessions judge and collector to frame list of,—list what to contain	"	400
JURY, questions to witness by, ...	I	166
saving of trials by commissioner of Akyab not held by, ...	VII	79
in trial of European British subjects how composed ...	X	78
trials before court of session	"	232
power of local government to order trials to be by, .	"	233
trial by, instead of with assessors; effect of irregularity ...	"	233
trial of European or American by,—composition of, ...	"	234
number of, to be fixed by local government	"	236
how composed for trial of person neither European nor American if he so require	"	241
composition of, when European or American is charged jointly with person of another race	"	242
foreman of, by whom appointed; duty	"	246
view by, of scene of offence	"	253
duty of, ...	"	257
to consider verdict; to return verdict on all charges ...	"	263
may try several offenders	"	265
trials, appeal in, to be on matter of law only	"	271
power of high court on reference of case tried by, ...	"	288
not to be present at inquiry ordered by appellate or reference court	"	289
verdict of, not to be set aside except on ground of misdirection	"	299
in trials by, judgment need not state reasons except where judge differs from jury, and refers case	"	464
application for, appointment and constitution of, in local nuisance case	"	523
attendance and duty of such, ...	"	524
JUSTICE, equity and good conscience, see *Custom*.		
decision according to, ...	IV	6
customs and usages valid when not contrary to, ...	"	7
court to act according to, ...	VII	6

	Act.	Sec.
JUSTICE, (*concluded*)		
sanction to prosecute certain offences against public, committed before court	X	468
JUSTICE OF THE PEACE included in "Magistrate"	VIII	2
unless a European British subject and a magistrate of first class, may not enquire into or try complaint against European British subject...	X	72
JUSTICES OF THE PEACE in native states, appointment, powers and jurisdiction of, ...	XI	6
power to direct to what court commitments shall be made by, ...	"	6
confirmation of existing, ...	"	7
JUVENILE how whipped	X	311
offenders, confinement of, in reformatories	"	318
KÁLÁBÁGH, salt minés at, ...	XXV	pream., 1 (*h*), (*i*)
KIDNAPPING and wrongful confinement as a slave, joinder of charges of, ...	X	454, ill. (*e*)
KINDRED, see *Impediment.*		
KINE, see *Slaughter.*		
KING OF AVA, representative of British government at any town in territory of, ...	XXIII	1
See *British territory, Exportation, Goods, Passage, Re-importation.*		
KNOWLEDGE, facts showing existence of, ...	I	14
of proposer's death or insanity	IX	6, cl. (4)
of loss or damage likely to arise from breach of contract	"	73
LAND, copy of decrees affecting, to be forwarded	IV	21
new trial in suits relating to, ...	VII	46
owner of, chargeable with income-tax	VIII	21
rules for assessing income derived from, ...	"	21
belonging to an absconding party, mode of attaching, ...	X	172
disputed possession of,—procedure	"	530, 531
disputes concerning right of use of, ...	"	532
LANDHOLDERS, duty of, to report certain matters	X	90
warrant of arrest may be directed to, ...	"	162
in Bombay, jurisdiction and procedure of, saved ...	"	541
LANDLORD and tenant, burden of proof as to relationship in case of, ...	I	109
estoppel of tenant from denying title of, ...	"	116
of injured person, &c., objectionable juror ...	X	244
LAND-MARK, prevention of injury to, ...	X	98
'LAND OR AT SEA' inserted in Evidence Act	XVIII	5
LAND-OWNERS, claim of, to pre-emption in certain cases ...	IV	14, cl. (2)
LAND-REVENUE, see *Assignment, Descent.*		
LANDS to which pre-emption may be presumed to extend ...	IV	11
LANGUAGE, when document applies accurately to existing facts, evidence inadmissible as to meaning of, ...	I	94
which can apply to one only of several persons or things, evidence admissible as to application of, ...	"	96
unmeaning in reference to existing facts, evidence admissible as to use of, ...	"	95
admissibility of evidence as to application of, to one of two sets of facts to neither of which the whole correctly applies	"	97
See *Evidence.*		
of evidence to be understood by juror	X	215

	Act.	Sec.
LANGUAGE, (*concluded*)		
local government may direct sessions judge or magistrate to take down evidence in his own, ...	X	335
in ordinary use in the district, local government to decide what is the, ...	"	337
of judgment	"	463
understood by native christians, translation into, of notice, certificate and declarations	XV	57, 58
See *English, Vernacular.*		
LAPSE of time prescribed in proposal for acceptance	IX	6, cl. (2)
LATENT DEFECTS, seller when not responsible for, ...	IX	116
LAW of country, relevancy of statement of, contained in law-book	I	38
See *Insolvency law.*		
to which parties intending marriage are subject to govern as to degree of relationship	III	2 (4)
or custom as to consanguinity or affinity, and no other, to prevent marriage	"	2, pro. 1
or custom as to consanguinity or affinity not to prevent marriage unless certain relationship can be traced between parties	"	2, 2nd pro.
to apply to issue of marriages under Act	"	18
altered or abolished, exception as to, ...	IV VII	5 (2) 6
opposed to Act, exception as to, ...	IV	5 (2)
modified by custom, exception as to, ...	"	5 (2)
in force in Panjáb, rules not to be inconsistent with, ...	"	50 (1)
to be administered under Act	VII	6
opposed to custom, exception as to, ...	"	6
regulating procedure of small cause courts to govern ...	"	17, cl. 2
relating to criminal procedure	"	55
in force, rules and forms not to be inconsistent with, ...	"	63
See *Buddhist, Equity, High court, Hindú, Justice, Muhammadan, Native, Personal law, Question of law, Questions of fact.*		
effect of mistake as to, ...	IX	21
consideration or object forbidden by, ...	"	23
partnership business prohibited by, ...	"	255
of England not to be followed as regards procedure in respect of European British subjects outside presidency towns	X	86, 87
relating to documents when applicable to police-diaries ...	"	126
judge to decide questions of, ...	"	256
specified by notification, arrest and removal for offence in native state committed against, ...	XI	11
relating to execution of warrants	"	12
relating to extradition not affected	"	14
of United Kingdon, see *Exclusive right.*		
consent to marriage required by, ...	XV	18 (*b*) 42 (*c*) 77 (1)
prior levy of duties on spirits to be deemed to have been according to, ...	XVI	3, cl. 2
past admissions into lunatic asylums to be deemed to have been according to, ...	XXI	6
Act to give force of, to Panjáb salt rules	XXV	
force of, given to Panjáb salt rules by Indian Councils' Act	"	pream.
LAW-BOOK, see *Book of laws, Law of country.*		
LAWFUL consideration	IX	10

	Act.	Sec.
LAWFUL (*concluded*)		
object	IX	10
debt	"	60
charges of finder	"	169
custody of goods	"	178
thing which may be done by agent .	"	188
LAWS in force in British India judicially noticed	I	57
repealed	"	2
See *Book of laws.*		
for Panjáb made by governor general, &c., repeal of, ...	IV	4 & sch. II
not repealable by governor general, saving of oaths prescribed by, ...	VI	6
of foreign states, saving of marriages according to, between subjects of such states	XV	87
See *Laws and regulations, Rules.*		
LEADING QUESTION, meaning of, ...	I	141
in examination-in-chief and re-examination when may be asked	"	142
in examination-in-chief and re-examination when may not be asked	"	142
may be asked in cross-examination ...	"	143
LEGACIES, rule of decision in questions as to, ...	IV	5
LEGAL, set of promises to do things which are, ...	IX	57
LEGAL BRANCH of alternative promise	IX	58
LEGALIZATION of prior levy of duties on spirits	XVI	3, cl. (2)
of past admissions into lunatic asylums ...	XXI	6
LEGALIZE, see *Marriages.*		
LEGAL PROCEEDINGS, agreement in restraint of, ...	IX	28
LEGAL PROCESS, see *Debtor.*		
LEGAL TRANSFER of partner's interest	"	254, cl. (3)
LEGISLATIVE COUNCILS, see *Councils.*		
LEGISLATIVE ENACTMENT, exception as to native law altered or abolished by, ...	IV VII	5 (2) 6
LEGISLATURES, proceedings of, how proved	I	78, cls. (2), (4)
LEGITIMACY, when birth during valid marriage conclusive proof of, ...	I	112
LENDER not a partner by advancing money for share of profits ...	IX	240
LETTERS, contract contained in, ...	I	91, ill. *(a)*
of administration, saving of, ...	XX	1
LEVY of fine, see *Fine.*		
of duties on spirits, legalization of prior, ...	XVI	3, cl. 2
LIABILITIES and assets, see *Debtor.*		
LIABILITY of surety	IX	128
of co-sureties	"	146
LICENSE, advocates, &c, of high courts entitled to act in recorder's court without, ...	VII	58
power of recorder to suspend or withdraw, ...	"	58
to solemnize marriage at other than fixed time ...	XV	10, (1) (2)
as to place for solemnizing marriages	"	11
fee for, ...	"	11
from bishop or surrogate to solemnize marriage ...	"	73, cl. 2
whether marriage is by, to be stated	"	sch. III
LICENSED, see *Ministers of religion, Persons.*		
LICENSED VENDORS, possession or sale of opium by persons other than, ...	XXVI	3
LICENSEE, estoppel of, from denying authority of licensor ...	I	117
of person in possession of immoveable property, estoppel of, from denying licensor's possession ...	"	116

	Act.	Sec.
LICENSES under repealed enactments confirmed	XV	2
to solemnize marriages, grant and revocation of, ...	"	6
to grant certificates of marriage between native christians, grant and revocation of, ...	"	9
LICENSING of advocates to act in recorder's court	VII	58
LICENSOR, licensee estopped from denying authority of, ...	I	117
LIEN of seller of goods	IX	95
where payment is to be made at a future day, but no time is fixed for delivery	"	96
of seller where payment is to be made at a future day, and buyer allows goods to remain in seller's possession ...	"	97
of seller against subsequent buyer	"	98
of finder of goods	"	168
of bailee	"	170
of bankers, factors, wharfingers, attornies and policy brokers	"	171
of agent	"	221
LIEUTENANT-GOVERNOR, N. W. PROVINCES—		
Act extends to territories under government of, ...	XXII	5
LIEUTENANT-GOVERNOR, PANJÁB—		
repeal of certain rules, laws and regulations for Panjáb made by, ...	IV	4 & sch. II
substituted for board of administration ...	XXV	1 (*d*)
Act extends only to territories under government of,	XXVI	1
LIFE, orders to prevent danger to human, ...	X	518
LIGHT SENTENCE may be enhanced by court of revision ...	X	297
LIMITATION, promise to pay debt barred by, ...	IX	25, cl. (3)
appropriation to payment of debt barred by, ...	"	60, 61
of period for appeal where person is sentenced to death	X	271
none, to appeals against acquittals	"	272
in cases of disputed right of use of land or water ...	"	532
of prosecutions	XV	76
LIMITED INTEREST, pledge by person having, ...	IX	179
LIMITED LIABILITY, partnership with, ...	IX	266
LINEAL ANCESTOR, or brother or sister of some lineal ancestor, marriage barred when one party is the, to the other	III	2, 2nd pro.
LIQUIDATED damages	IX	74
LIST of officers liable to serve as jurors to be sent to court of session	VII	56, cl. 2
See *Holidays*.		
of lodgers and employees	VIII	24
penalty for false statement in, ...	"	39
of defence-witnesses; witnesses to be summoned ...	X	358
of jurors and assessors, formation of, ..	"	400—14
of jurors and assessors who serve to be kept	"	413
of witnesses for defence to be taken on inquiry; further list	"	200
See *Jurors and assessors*.		
LISTS, power to prescribe forms of, ...	VIII	46
LITHOGRAPHED documents how far primary evidence ...	I	62
words are a 'document'...	"	3
expressed by 'written'	X	4
LOAN of horse which lender knows to be vicious ...	IX	150, ill. (*a*)
of thing for use	"	159
to trader on contract that lender shall share profits ...	"	240
LOCAL AREA within which delegated powers are to be exercised ..	XI	5
LOCAL CUSTOMS when valid	IV	7
LOCAL EXPRESSIONS, evidence admissible to show meaning of, ...	I	98
LOCAL EXTENT, see *Extent*.		

	Act.	Sec.
LOCAL GOVERNMENT—		
may appoint marriage registrars	III	3
to prescribe conditions and fees for marriages solemnized elsewhere than in registrar's office ...	"	12
to prescribe marriage registrar's fees	"	14
fee for extract from marriage-certificate-book	"	14, cl. 3
may invest courts with insolvency-jurisdiction ...	IV	22
rules for administration of insolvent estates may be framed and altered with sanction of, ...	"	31
may exclude race or class from operation of such rules	"	32
to make rules as to exercise of jurisdiction of court of wards	"	38
may invest persons with police officer's powers ...	"	40
slaughter of kine and sale of beef to be subject to rules prescribed by, ...	"	43
entry of armed men into towns to be subject to rules prescribed by, ...	"	44
report to, in case of vagrants not complying with orders of magistrate	"	46
may direct as to surveillance, &c., of vagrants ...	"	46
crossing of rivers and streams, and keeping of buoys and skins for crossing to be regulated by, ...	"	47
use of pasturage and natural products of government land to be subject to rules prescribed by, ...	"	48
growth, sale and keeping of opium to be subject to rules prescribed by, ...	"	49
power of, to issue rules as to matters mentioned in sections 43 to 49	"	50
penalty for breach of any rule made by, ...	"	50, cl. 2
existing rules confirmed until otherwise directed by,	"	50, cl. 4
republication of all rules issued by, ...	"	51
chief commissioner may exercise powers conferred on, by Act XI of 1865, section 7	VII	18
deduction of duty in case of officials and pensioners under, ...	VIII	7
may prescribe rules for assessment of income from land	"	21
may appoint officers to exercise powers of collector and commissioner under Act	"	43
power of, to declare principal place of business ...	"	45
to declare residence	"	45
such powers may be delegated to officers appointed by,	"	45
delegation to, of certain powers	"	46 (c)
power of, to appoint and remove judges ...	X	9
may alter sessions divisions	"	13
may appoint additional or joint sessions judges, and may limit jurisdiction	"	17
may appoint assistant sessions judges... ...	"	18
may confer certain powers on magistrates of third class	"	23
may confer certain powers on magistrates of second class	"	25
may confer certain powers on magistrates of first class	"	27
powers inherent in magistrate of division of district	"	28
may confer certain powers on magistrates of divisions of districts	"	29
to appoint magistrate of first class to be magistrate of district	"	35

	Act.	Sec.
LOCAL GOVERNMENT—(*continued*)		
may invest chief executive district officer in certain provinces and districts with certain powers	X	36
may appoint magistrates of first, second and third class; jurisdiction to be limited by Act ...	"	37
may prescribe and alter local limits of jurisdiction of magistrates of districts, and of magistrates of divisions of districts... . ..	"	38, 39
may place magistrate of first or second class in charge of division of district; may delegate this power to magistrates of districts ...	"	40 42
may appoint special magistrates	"	43
may confer powers specially or generally ...	"	
may allow magistrates of districts to withdraw classes of cases	"	48
may issue orders as to authorization of magistrates, by magistrate of district, to entertain complaints within certain limits ...	"	49
may form magistrates' benches and invest them with powers of magistrate of first, second or third class; may limit jurisdiction ...	"	50
power of, to regulate rules for guidance of magistrates' benches	"	52, 53 54
may vary or cancel powers...	"	
pending orders of, vacancy in office of magistrate of district to be temporarily filled	"	55 56
may vary powers of officer on transfer ...	"	57
may appoint public prosecutors	"	
may direct that any cases or classes of cases shall be tried by particular sessions courts ...	"	68
to appoint places of confinement for European British subjects	"	83 112
to prescribe form of police complaint-book ...	"	117, 125
to appoint superior officer of police to receive reports	"	
may prescribe form of final report of police investigation	"	127
to appoint medical officer to make *post mortem* examinations	"	133
may invest magistrate of first class with power to try summarily	"	223
bench of magistrates with first class powers	"	224
bench of magistrates with less powers with power to try limited number of offences summarily	"	225
may authorize bench of magistrates to prepare record of summary trial by clerk ...	"	230
may order trials before court of session to be by jury	"	233 236
to fix number of jury	"	
may empower magistrates of first class to hear certain appeals	"	266 272
may direct appeal against acquittal, &c. ...	"	279
may empower person to prosecute in appeal cases...	"	
sanction of, necessary to certain rules by high courts	"	292 311
powers of, to regulate whipping	"	318
may establish or license reformatories... ...	"	

	Act.	Sec.
LOCAL GOVERNMENT—(*continued*)		
may order removal of person to be transported ...	X	319
may authorize officer in this behalf	"	319
when unnecessary for, to order removal ...	"	320
power of, to pardon and to commute punishment...	"	322
may direct evidence to be recorded by sessions judge or magistrate himself in his own vernacular, or in English or vernacular of district ...	"	335
may determine what is language in ordinary use in district	"	337
may appoint officer to aid sessions judge in preparation of list of jurors and assessors, and may prescribe distance within which such persons may be taken	"	400
may exempt persons from liability to serve as jurors or assessors	"	406
with sanction of governor general, may make rules for payment of expenses of complainants and witnesses	"	421
to decide nature of confinement of lunatic accused of non-bailable offence	"	426
power of, to order person acquitted on ground of lunacy to be kept in custody	"	430
to receive report on lunatic prisoner every six months	"	431
when may order discharge of lunatic prisoner; or detention; or transfer to public lunatic asylum; or appointment of commission	"	433
may deliver over lunatic to friend or relative on certain conditions, and may appoint officer to inspect him	"	434
power of, to sanction prosecutions ...	"	465
to sanction prosecution of judges and public servants, or to delegate this power	"	466
to nominate prosecutor and specify court for prosecution and trial of public servants	"	466
may empower magistrate of first class to pass orders regarding obstructions and local nuisances ...	"	521
power of, to declare, in non-regulation provinces, the officers who shall exercise jurisdiction ...	"	sch. IV, note 5th
power of, to direct copies of depositions and exhibits to be received as evidence in trial for offence committed in native state	XI	10
may order inquiry on requisition to it for extradition	"	14
power of, to exempt steamers from operation of Act	XII	1
may grant and revoke licenses to solemnize marriages	XV	6
may appoint marriage registrars	"	7
to appoint senior marriage registrar	"	7, cl. 2
may license persons to grant certificates of marriage between native christians	"	9
may revoke such licenses	"	9, cl. 2
copy of returns of marriages to be sent to secretary to,	"	29, cl. 3
returns of marriages to be sent to secretary to, ...	"	30, 31
certificates of marriages to be sent to secretary to, ...	"	34, cl. 3; 36, 55

	Act.	Sec.
LOCAL GOVERNMENT.—(*concluded*)		
marriage-registers to be sent to secretary to, ...	XV	37, cl. 2; 55, cl. 2
to supply marriage-notice-books	"	40
forms of certificate	"	50, cl. 2
to prescribe form of marriage-registers ...	"	62, cl. 2
places for deposit of extracts ...	"	62, cl. 2
separate certificate in case of correction of error to be sent to secretary to, ...	"	78, cl. 3
searches to be allowed and copies given by secretary to, having custody of registers, &c. ...	"	79
certificates of certain marriages to be sent to Home Department by secretary to, ...	"	81
to fix amount of fees chargeable	"	82, cl. 6
may make rules for disposal of fees, supply of books, and submission of returns of marriages...	"	83
powers of, under sections 82, 83, may, as regards native states, be exercised by governor general ...	"	84
may declare who in any place is 'district judge' ...	"	85
to notify rate of duty on spirits in Burma ...	XVI	2
or officers appointed by it may define local area of jurisdiction of persons exercising powers of deputy collectors	XXII	3
to determine	XXV	1 (*b*)
confiscation of opium for breach of rule made by,...	XXVI	5
LOCAL INQUIRY to determine boundary dispute	X	533
LOCAL INVESTIGATION when necessary	X	114
when unnecessary	"	116, 117
'LOCAL LAW' defined	X	4
LOCAL LAWS, compensation out of fines under, ...	X	308
levy of fines imposed under, ...	"	307
offences under, by whom triable	"	7, 8
powers conferred by, on police saved	"	111
prohibition of nuisances under, ...	"	519
venue	"	63
LOCAL LIMITS of jurisdiction of courts, power to fix and vary, ...	VII	11
confirmation of existing, ...	"	12
of civil jurisdiction of recorder of Rangoon ...	"	40
LOCAL NUISANCES	X	518—29
no appeal against order passed under chapter xxxix; nor against report by jury thereunder	"	286, ill. (*e*)
certain magistrates may issue orders to prevent obstructions, danger to human life, riots, &c.	"	518
when summary procedure may be followed ...	"	518, exp. I
order when to be made *ex parte*; information necessary	"	518, exp. II
order how directed	"	518, exp. III
order may be recalled	"	518, exp. IV
certain magistrates may order person not to repeat or continue, ...	"	519
orders under sections 518 and 519 not judicial proceedings	"	520
certain magistrates empowered to issue orders regarding obstructions, nuisances, offensive trades, dangerous buildings and substances, tanks and wells	"	521
order to be judicial proceeding	"	521
order to be in alternative	"	521
public place defined	"	521

BENGAL SECRETARIAT LIBRARY

	Act.	Sec.
LOCAL NUISANCES (*concluded*)		
service and notification of order	X	522
person ordered to obey; to appear and show cause, or claim jury	,,	523
appointment and constitution of jury ...	,,	523
suspension of order pending report of jury ...	,,	523
when order may be made absolute ...	,,	523
time within which jury are to report to be fixed by magistrate	,,	523
magistrate may summon jurors; duty of jurors	,,	524
procedure in case where person appears; where person does not appear or disobeys order; suit when not maintainable	,,	525
procedure when jury find magistrate's order to be reasonable	,,	526
procedure when person ordered appears and satisfies magistrate that order is not reasonable	,,	527
where immediate measures are necessary to prevent injury, magistrate may issue injunction; if person neglect to take precautions, magistrate may do what is necessary ...	,,	528
saving of certain statutory provisions ...	,,	529
LODGING of lunatic, payment for, ...	XXI	5
LONDON GAZETTE, presumption as to genuineness of, ...	I	81
LONDON-PROOF, see *Spirits*.		
LOSS of document	I	66, cl. 5
arising from joint promisor's failure to contribute to performance	IX	43
partnership business carried on at a, ...	,,	54, cl. (6); 254, cl. (6)
on re-sale borne by buyer	,,	107
caused by breach of warranty	,,	117
of goods bailed	,,	152
of goods bailed and not returned at proper time, bailee's responsibility for, ...	,,	161
sustained by agents's misconduct	,,	211
LOST document, proof of contents of, ...	I	104, ill. (*b*)
LOT, jurors chosen by, ...	X	240
names of jurors or assessors to be summoned to be selected by,	,,	407
LOTTERY OFFICE, sanction necessary to prosecution for keeping, ...	X	465
LOWER COURT, decision of, may be confirmed without summoning respondent	VII	30
LUCID INTERVAL, contract made in, ...	IX	12
LUNATIC when incompetent as witness	I	118
may contract during lucid interval	IX	12
reimbursement of person supplying necessaries to, ...	,,	68, ill. (*a*)
reimbursement of person supplying necessaries to wife and children of, ...	,,	69, ill. (*b*)
cannot be a principal	,,	183
may be an agent	,,	184
See *Insanity, Lucid interval, Marriage.*		
LUNATIC ASYLUM, confinement in, of person acquitted on ground of lunacy	X	430
transfer of lunatic to, ...	,,	433
See *Asylum.*		
LUNATICS	X	423—34
procedure where person whom magistrate is competent to try appears a lunatic	,,	423

	Act.	Sec.
LUNATICS (*concluded*)		
person who appears to have committed, whilst insane, an offence exclusively cognizable by court of session to be committed if sane at inquiry; procedure if insane ...	X	424
if person appears insane before court of session, it shall try the fact and record special judgment	"	425
where person appears insane and incapable of making his defence, if accused of bailable offence, may be bailed; if offence non-bailable, report to local government	"	426
resumption of postponed inquiry; appointment of inspecting officer; duty of surety	"	427
procedure on accused appearing before magistrate or court of session; further postponement	"	428
finding of not guilty on ground of lunacy to state whether offence was committed	"	429
where act was committed, person so acquitted to be confined and report made to local government; local government to pass orders as to custody	"	430
lunatic prisoners to be visited by inspector general of prisons or visitors at least once in six months; report to government	"	431
when lunatic prisoner is reported sane, to be tried; effect of certificate	"	432
when lunatic, confined under section 430, is reported sane, local government may order discharge, transfer to lunatic asylum or detention, or appoint commission	"	433
local government may deliver such lunatic over to relative or friend on certain conditions	"	434
See *Appeal, Estates, Income, Jurisdiction, Native.*		
LURKING, person found, may be arrested by officer in charge of police-station	X	94
may be required to give security for good behaviour	"	504
MADRAS, duty of head of village in, to investigate cases of sudden or unnatural death	X	133
jurisdiction and procedure of heads of villages and cantonment magistrates in, saved	"	541
power of government of, to sanction certain prosecutions	"	488
See *Government, Presidencies, Presidency towns.*		
MAGIC, agreement to discover treasure by, ...	IX	56, ill. (*a*)
MAGISTRATE, questions as to conduct or knowledge, not generally compellable to answer	I	121
when compellable to answer .	"	121
may be examined as to other matters which occurred in his presence	"	121
not compellable to disclose whence information obtained as to commission of offence	"	125
defined	VIII	2
how to record evidence, see *Evidence.*		
to whom case is submitted by magistrate who has not jurisdiction to try or commit; procedure ...	X	45
of second or third class having jurisdiction in case, who is unable to pass adequate sentence, may, if empowered, commit offender	"	46

	Act.	Sec.
MAGISTRATE, (*continued*)		
unless a European British subject, a magistrate of the first class, and a justice of the peace, may not enquire into or try complaint against European British subject	X	72
to decide whether person is European British subject; effect of decision	,,	83
duty of, ...	,,	84
duty of, to ask persons apparently European British subjects whether they are such	,,	84
proceedings of, in respect of European British subjects by what law regulated	,,	87
public to report certain offences to, ...	,,	89
report to be made to, of certain matters connected with crime	,,	90
may call on persons to assist him in certain cases ...	,,	91
may order arrest of person who commits offence before him	,,	108
may record statements or confessions made during police investigations	,,	122
persons summoned to attend police-inquest not ordinarily to be required to attend court of, ...	,,	134
duly authorised, may hold inquest	,,	135
duly empowered, may entertain certain complaints ...	,,	141
to examine complainant	,,	144
not empowered to receive complaint, how to deal with complaint	,,	145
may direct accused to appear personally instead of by agent	,,	151
may direct arrest in his presence	,,	166
may attend during execution of warrant of arrest ...	,,	166
to whom warrant of arrest is directed, duty of, ...	,,	170
duty of, before whom person is brought under warrant of arrest	,,	170
may prohibit access to court	,,	187
may grant copies of depositions free of cost ...	,,	201
subordinate to court of session for certain purposes	,,	295
restricted to one-fourth of his powers in giving imprisonment in default of payment of fine in addition to substantive imprisonment	,,	309
to be present at whipping	,,	311
duty of, ...	,,	312
procedure of, to obtain issue of commission ...	,,	330
empowered to commit, when may tender pardon ...	,,	347
duty of, to summon material witness	,,	351
may attach moveable property of absconding witness	,,	353
may release or sell	,,	354
may commit person to custody for refusal to answer ...	,,	356
may give notice to postal authorities to detain letter	,,	369
to endorse search-warrant	,,	372, 375, 376
to order thing found on search to be taken to magistrate concerned	,,	373, 376
may attend during execution of search-warrant; may order search in his presence	,,	378
precept to summon jurors or assessors may be directed to any, ...	,,	407
may order sale of certain perishable property ...	,,	415

	Act.	Sec.
MAGISTRATE (*concluded*)		
may resume trial or inquiry postponed on account of accused's state of mind; may appoint officer to inspect lunatic	X	427
how to act when accused who was insane is again brought before him	,,	428
restricted to fine of Rs. 200 in punishing contempt against his own court	,,	426 472
certain powers of, when exercisable by court of session	,,	474
by civil court ...	,,	476
by both ...	,,	
bound to receive and dispose of case sent him for enquiry and committed by civil court... ...	,,	474
not empowered to commit, procedure where offence exclusively triable by sessions court is committed before, ...	,,	477
duties of, in dispersion of unlawful assemblies, see *Unlawful assemblies.*		480
may command unlawful assembly, &c., to disperse ...	,,	
prosecution of, for act done in dispersing unlawful assembly by military force; sanction necessary ...	,,	488
not empowered to take security to keep the peace how to proceed on convicting persons of certain offences	,,	489
specially empowered may issue order to prevent obstructions, &c.	,,	518
may prohibit repetition or continuance of public nuisance	,,	519 538
power of, to enforce maintenance-order	,,	
to whom warrant may be directed for arrest of offender in native state	XI	12
who may be ordered to inquire upon requisition for extradition	,,	14
procedure of, on such order	,,	14
master of native passenger-ship entering Indian port without clean bill of health to be taken before, ...	XII	5
may impose penalty on such master	,,	5
may recover penalty as fine	,,	5
MAGISTRATE HAVING JURISDICTION		
person arrested for non-cognizable offence when to be forwarded to, ...	X	93
immediate information of refusal to allow search for person liable to arrest without warrant to be sent to, when warrant can be waited for	,,	100
person arrested without warrant to be taken before,...	,,	101
mate or master of vessel arresting deserter to accompany him to, ...	,,	106
commission of cognizable offence to be immediately intimated to, ...	,,	114
may proceed to inquire into case reported to him ...	,,	115
to receive report when local investigation is dispensed with, and copy of superior police officer's orders ...	,,	117
arrested person when to be forwarded to,—complainants and witnesses to be bound to appear ...	,,	123
when accused is to be forwarded to, although investigation is not complete	,,	124
report to be made to, through superior officer of police, where evidence is insufficient	,,	125
final report of investigation to be made to, ...	,,	127

	Act.	Sec.
MAGISTRATE HAVING JURISDICTION (*concluded*)		
complainants and witnesses to be bound under recognizances to appear before, ...	X	130
recusant complainants and witnesses to be sent in custody to,—may be detained	"	131
complaint to be sent to, by magistrate not competent to entertain	"	145
process for appearance before, ...	"	147
procedure of, in summons case	"	148
procedure of, in warrant case	"	148
may issue proclamation except in summons cases ...	"	171
may order attachment and sale of property of absconder	"	172
report of seizure of false weights to be made to, ...	"	381
MAGISTRATE IN CHARGE OF JAIL to forward appeal ...	X	277
MAGISTRATE OF DISTRICT may inflict fine on village	IV	42
may award fine to persons injured ...	"	42, para. 3
to fix amount of fee to tracker ...	"	42, para. 3
powers of, as to foreign vagrants ...	"	45
to report to local government when vagrants fail to comply with orders ...	"	46
when to be marriage registrar ...	XV	7, cl. 3
MAGISTRATE OF POLICE included in "Magistrate"	VIII	2
procedure of, in regard to warrant of arrest	X	170
duty of, as to search-warrants ...	"	374, 376
in presidency towns, jurisdiction of, saved	"	540
MAGISTRATE OF THE DISTRICT		
may confer certain powers on magistrates of third class	X	23
magistrates of second class	"	25
magistrates of first class	"	27
miscellaneous powers of, ...	"	30
one to be appointed for every district; to be of first class	"	35
powers conferrable on, in certain provinces and districts	"	36
powers with which deputy commissioners and chief executive officers of district may be invested ...	"	36
subordination of other magistrates to, ...	"	37
local limits of jurisdiction of, may be prescribed and altered	"	38
may be empowered to appoint divisional magistrates ...	"	40
may make over cases to subordinate magistrates ...	"	44
may direct subordinate magistrate to submit case beyond his jurisdiction to particular magistrate ...	"	45
may pass judgment, sentence, or order on proceedings submitted by subordinate magistrate ...	"	46
may withdraw cases and appeals and refer them for trial	"	47
may, with sanction of local government, withdraw classes of cases	"	48
subject to orders of local government, may distribute business by localities	"	49
subject to orders of local government, may make rules for guidance of magistrates' benches ...	"	52
subject to like sanction, may repeal or alter rules ...	"	53
vacancies in office of, how temporarily filled ...	"	55
order sanctioning detention in police custody to be reported to, ...	"	131
report of apprehensions and detentions to be made to,	"	132

	Act.	Sec.
MAGISTRATE OF THE DISTRICT (*continued*)		
in absence of district superintendent of police and assistant district superintendent of police, may appoint senior police officer to exercise certain of the powers of the district superintendent ..	X	138
may entertain complaints	,,	141
may act without complaint	,,	142
may commit for trial	,,	143
power of, to issue summons or warrant for offence committed beyond local jurisdiction	,,	157
may direct warrant of arrest to landholders, &c. ...	,,	162
may endorse order to attach and sell absconder's property	,,	172
may restore property of alleged absconder ...	,,	173
powers of, in regard to persons arrested for offences committed beyond jurisdiction	,,	175
in cases committed to court of session, may appoint prosecutor other than government pleader ..	,,	202
may endorse order to attach and sell complainant's property	,,	209
what offences he may try summarily	,,	222
officers empowered by, to prosecute in trials before court of session	,,	235
may hear appeals against sentences of magistrates of second and third classes	,,	266
may hear appeals against orders to furnish security to be of good behaviour, passed by magistrates, first class	,,	267
appeals from convictions by, ...	,,	269
what sentences of, are not appealable	,,	273
what sentences passed by, on summary trials, not appealable	,,	274
duty of, to inform prosecutor of hearing of certain appeals	,,	279
may empower person to represent prosecution on hearing of appeal	,,	280
may call for record of subordinate courts ...	,,	295
when to report to high court and when to order commitment	,,	296
may order enquiry into dismissed complaint ...	,,	298
when revision-order to be certified to, ...	,,	299
court of session to send copy of its finding and sentence to, ...	,,	302
power of, to endorse warrant for levy of fine ...	,,	307
may set aside conviction and order new trial in certain cases where conviction is had on evidence partly recorded by one officer and partly by another	,,	328
commission may be addressed to,—procedure ...	,,	330
how to record evidence in summons cases, &c. ...	,,	333
when may offer conditional pardon	,,	347
endorsement by, of order for attachment of property of absconding witness	,,	353
may grant warrant of search for letter in post office	,,	369
may grant search-warrant for search of house suspected to contain stolen property, forged documents, &c.	,,	377
may endorse warrant for attachment and sale of property belonging to accused not appearing to his bail	,,	396

	Act.	Sec.
MAGISTRATE OF THE DISTRICT (*concluded*)		
may endorse warrant for attachment and sale of property belonging to accused not appearing to his surety	X	397
may revise orders enforcing payment of penalty of bail-bonds, or hear appeals against such orders when passed by magistrates	,,	398
civil officers superior in rank to, exempted from serving as jurors or assessors	,,	406
attachment and sale of moveable property belonging to juror or assessor	,,	414
may sell suspicious or stolen property	,,	417
reference of suspicious or stolen property to, ...	,,	420
to bring forward cases committed by civil courts ...	,,	475
powers of, to take recognizance to keep the peace ...	,,	489
power of, to order person convicted by certain magistrates of certain offences to enter into recognizances	,,	489
or to furnish security to keep the peace ...	,,	490
power of, to require security	,,	490, *et seq.*
power of, to release persons bound by himself or by subordinate magistrate to keep the peace ...	,,	500
power of, to attach and sell moveable property of person committing breach of peace when bound; endorsement of warrant	,,	502
powers of, as to recovery of penalty from surety ...	,,	503
power of, to require security for good behaviour for six months; to pass orders on proceedings of magistrate of division of district	,,	504
may require security for one year	,,	505
may release person confined by order of magistrate in default of furnishing security to be of good behaviour	,,	511
may attach and sell property of surety to bond to be of good behaviour on breach of bond; endorsement of warrant	,,	514
may issue orders to prevent obstructions, &c. ...	,,	518
may prohibit repetition or continuance of public nuisance	,,	519
power of, to pass orders regarding obstructions and local nuisances	,,	521, *et seq.*
power of, to pass orders in possession cases ...	,,	530, *et seq.*
power of, to order maintenance	,,	536
MAGISTRATE OF THE FIRST CLASS		
powers of, to pass sentence	X	20
miscellaneous powers of, ...	,,	22, 24, 26
miscellaneous powers which may be conferred on, by local government and magistrate of district ...	,,	27
may order police to investigate	,,	110
duly authorized, may issue summons or warrant for offence committed beyond local jurisdiction ...	,,	157
may be invested with power to try summarily ...	,,	223
may be invested with power to hear certain appeals	,,	266
appeals from convictions by, ...	,,	269
what sentences of, are not appealable	,,	273
what sentences of, on summary trials, are not appealable	,,	274
commission may be addressed to,—procedure ...	,,	330
how to record evidence in summons cases and in trials of certain offences	,,	333, 336

	Act.	Sec.
MAGISTRATE OF THE FIRST CLASS—(*concluded*)		
when may tender pardon to accomplice ...	X	347
may grant warrant for search of house suspected to contain stolen property, forged documents, &c. ...	"	377
may sell suspicious or stolen property if specially authorized	"	417
to bring forward commitment of civil court ...	"	475
power of, to take recognizance to keep the peace ...	"	489
when may order person convicted by another magistrate to enter into recognizances	"	489
or to furnish security to keep the peace ...	"	490
to take security	"	490, *et seq.*
power of, to attach and sell moveable property of person committing breach of the peace when bound...	"	502
and sell moveable property of surety	"	503
power of, to require security to be of good behaviour for six months	"	504
power of, to require security to be of good behaviour for one year	"	505
may enforce penalty of bond to be of good behaviour on sureties by attachment and sale of moveable property	"	514
may be empowered to pass orders in local nuisance cases; parties in local nuisance cases may be summoned before, ...	"	521
power of, to issue orders in possession cases ...	"	530, *et seq.*
may depute subordinate magistrate to enquire into boundary dispute	"	533
power of, to order maintenance	"	536
MAGISTRATE OF THE SECOND CLASS—		
jurisdiction of, over offences under local and special laws ...	X	8
powers of, to pass sentences ...	"	20
miscellaneous powers of, ...	"	22, 24
miscellaneous powers conferrable on, by local government and magistrate of district	"	25
may order police to investigate certain cases ...	"	110
how to record evidence in summons cases and in trials of certain offences	"	333, 336
how to act where he considers person should be bound to be of good behaviour	"	504
parties in local nuisance cases may be summoned before, ...	"	521
MAGISTRATE OF THE THIRD CLASS—		
jurisdiction of, over offences under special and local laws	X	8
powers of, to pass sentences	"	20
miscellaneous powers of, ...	"	22
miscellaneous powers conferrable on, by local government and by magistrate of district ...	"	23
how to act where he considers person should be bound to be of good behaviour	"	504
MAGISTRATES, exception of courts of certain, from jurisdiction of judicial commissioner	VII	9
powers of recorder in respect of proceedings of, ...	"	54
to be deemed appointed under Act	X	10
to be of three classes	"	19

	Act.	Sec.
MAGISTRATES, (*concluded*)		
powers of, to pass sentences	X	20
list of miscellaneous powers of, ...	,,	21
powers common to all, ...	,,	22
to be subordinate to magistrate of district, but not generally to sessions judge	,,	37
to inquire into or try offences in districts in which committed	,,	63
of first class who are justices of the peace and European British subjects, justices in native states to have powers of, ...	XI	6
MAGISTRATES AND THEIR POWERS	X	19—56
magistrates to be of three classes	,,	19
sentences which magitrates may pass; powers of magistrates, first class; powers of magistrates, second class; powers of magistrates, third class	,,	20
powers conferred upon magistrates ...	,,	21
powers common to all magistrates ...	,,	22
powers which local government and magistrate of district may confer on magistrates of third class	,,	23
powers of magistrates of second class ...	,,	24
powers which may be conferred on magistrates of second class	,,	25
powers of magistrates of first class ...	,,	26
powers which may be conferred on magistrates of first class	,,	27
powers of magistrates of divisions of districts ...	,,	28
powers which local government may confer on magistrates of divisions of districts ...	,,	29
powers of magistrates of districts	,,	30
saving of other powers	,,	31
irregularities which do not vitiate proceedings ...	,,	32
when irregular commitments may be validated	,,	33
irregularities which render proceedings void ...	,,	34
MAGISTRATES' BENCHES, formation of, ...	X	50
power to invest magistrates sitting as a bench with certain powers ...	,,	50
powers exercisable by such bench in absence of special directions ...	,,	51
ordinary powers of, ...	,,	51
magistrate of district may frame rules for guidance of, ...	,,	52
rules for guidance of, ...	,,	52, 53
magistrate of district may vary or annul rules made under section 52 ...	,,	53
exercising powers of magistrate, first class, may be empowered to try summarily	,,	224
exercising powers of magistrate, second or third class, may be empowered to try certain offences summarily ...	,,	225
exercising powers of magistrate, first class, appeals from convictions of, on summary trials	,,	274
'MAGISTRATE'S CASE' defined	X	4
MAGISTRATES OF DIVISIONS OF DISTRICTS— miscellaneous powers inherent in	X	28

	Act.	Sec.
MAGISTRATES OF DIVISIONS OF DISTRICTS—(*concluded*)		
miscellaneous powers which local government may confer on, ...	X	29
local limits of jurisdiction of, may be prescribed and altered	,,	39
must be either magistrate of first or second class;		40
subordinate to magistrate of district	,,	41
other magistrates in division subordinate to, ...	,,	
may make over criminal cases to subordinate magistrates	,,	44
may pass judgment, sentence or order on submitted proceedings of subordinate magistrates ...	,,	46
may withdraw cases and refer them for trial ...	,,	47
order sanctioning detention in police custody to be reported to, ...	,,	124
report of apprehensions and detentions to be made to,	,,	132
may entertain complaint	,,	141
may act without complaint	,,	142
may commit for trial	,,	143
may issue warrant for offence committed beyond local jurisdiction	,,	157
procedure of, on arrest	,,	174, 175
power of, to issue search-warrnt for search of house suspected to contain stolen property, &c. ...	,,	377
may sell stolen or suspicious property	,,	417
reference to, of property suspected to be stolen ...	,,	420
power of, to order person convicted by certain magistrates of certain offences to enter into recognizances	,,	489
or to furnish security to keep the peace ...	,,	490
power of, to take recognizance to keep the peace ...	,,	489
security to keep the peace ...	,,	490, *et seq.*
power of, to attach and sell moveable property of person committing breach of the peace when bound	,,	502
power of, to attach and sell moveable property of surety	,,	503
if exercising first class powers, may demand security to be of good behaviour for six months; if exercising second class powers may only enquire ...	,,	504
may require security for one year	,,	505
if exercising first class powers, may enforce penalty on breach of bond to be of good behaviour on sureties; attachment and sale of moveable property	,,	514
may issue orders to prevent obstructions, &c. ...	,,	518
may prohibit repetition or continuance of public nuisance	,,	519
power of, to issue orders regarding obstructions and local nuisances	,,	521, *et seq.*
power of, to pass orders in possession-cases ...	,,	530, *et seq.*
power of, to order maintenance	,,	536
MAINPRISE, writ of, not to run beyond presidency towns ...	X	82
MAINTENANCE, orders of, may be made by magistrates of first class and of divisions of districts ...	X	26,28
no appeal against order of, ...	,,	286, ill. (*f*)
of wives and families	,,	536—38
order for, ...	,,	536
mode of enforcing order	,,	536
offer of, on restoration of conjugal intercourse ...	,,	536
wife when not entitled to, ...	,,	536

	Act.	Sec.
MAINTENANCE, (*concluded*)		
alteration in allowance of, ...	X	537
copy of order for, to be given to person benefited; enforcement	"	538
of lunatic, payment for, ...	XXI	5
See *Accused persons.*		
MAJORITY, age of, ...	IX	11
sale to daughter on attaining, ...	"	17, ill. (*b*)
MAKING thing contracted to be sold	IX	79
over cases, power of, conferrable on magistrates of first class	X	27
magistrates who may make over cases and to whom	"	44
power of civil or criminal court to make over certain cases to magistrate	"	471
or counterfeiting register or counterfoil certificate, penalty for, ...	XV	75, cl. 2
MAN, see *Age.*		
MANAGEMENT of property, jurisdiction of court of wards as to, ...	IV	38
of partnership-business	IX	254, cl. (3)
MANAGER to furnish annual return of employees	VIII	8
chargeable with income-tax	"	19
may retain duty	"	20
penalty on, for default	"	38
of land, warrant of arrest may be directed to, ...	X	162
and receiver, appointment of, where property of absconder is attached	"	172
MANDALAY, representative of British government at, ...	XXIII	1
MANNER of expressing acceptance	IX	7
of performing promise	"	50
MANUFACTURE, see *Exclusive right, New manufacture, Privilege.*		
MANUFACTURED, see *Alimentary salt.*		
MAPS are 'documents'	I	3
relevancy of statements in, ...	"	36
presumption as to, ...	"	83—87
MARGINAL ENTRY, correction of errors by, ...	XV	78
to be signed and dated	"	78
to be made in certificate also	"	78
attestation of, ...	"	78, cl. 2
MARK used for navigation, prevention of injury to, ...	X	98
MARKS of packages	XXIII	sch.
MARRIAGE, birth during valid, when conclusive proof of legitimacy	I	112
communications during, privileged from disclosure ...	"	122
not generally admissible ...	"	122
when admissible	"	122
for persons not christian, jewish, hindú, muhammadan, pársi, buddhist, sikh, or jaina, Act to provide form of, ...	III	
when solemnizable	"	6, 8, cl. 2
when not solemnizable	"	8, cl. 3
how solemnizable	"	11
where solemnizable	"	12
void	"	15
rule of decision in questions as to, ...	IV VII	5 6
agreement in restraint of, ...	IX	26
lunacy of person contracting, ...	"	56, ill. (*b*)
offences relating to, not cognizable without complaint	X	142
penalty for false oath, &c., for procuring, ...	XV	66

	Act.	Sec.
MARRIAGE, (*concluded*)		
certified copies of entries in registers, &c., to be evidence of, ...	XV	80
See *Age, Ancestor, Blood, Certificate, Conditions, Consanguinity, Consent, Court, Declaration, Father, Guardian, Husband, Law or custom, Lineal ancestor, Notice, Objection, Objector, Parties, Persons, Relationship, Wife.*		
'MARRIAGE CERTIFICATE BOOK'	III	13
inspection of, and admissibility as evidence	"	14, cl. 3
See *Extracts, Fees.*		
'MARRIAGE NOTICE BOOK'	III	5
notices to be copied in, ...	XV	40
open to inspection without fee ...	"	40, cl. 2
entry in, of protest against issue of certificate	"	44, cl. 2
MARRIAGE REGISTER BOOK—		
registry of marriages in, ...	XV	32, 54
form of, ...	"	32 & sch. IV 54 & sch. IV
entries in, to be signed and attested	"	33, 54, cl. 2
order of entries in, ...	"	33, cl. 2, 54, cl. 3
numbers of entries in, to correspond with certificate numbers	"	33, cl. 2, 54, cl. 3
separation of certificates from, ...	"	55
custody of, ...	"	55, cl. 2
disposal of, when filled	"	55, cl. 2
See *Certificate, Register-book, Registers.*		
MARRIAGE REGISTRAR, magistrate when to be, ...	XV	7, cl. 3
See *Senior.*		
to publish in his office notice of marriage in private dwelling ...	"	14
sending copy of notice to, when one party is a minor	"	15
procedure of, on receipt of such notice ...	"	16
certificates of marriages to be sent to, ..	"	34
to cause certificates to be entered in book ...	"	34, cl. 2
to send certificates monthly to secretary to government	"	34, cl. 3, 36
to number copies of certificates ...	"	35
to add numbers to certificates ...	"	36
registers of native christian marriages to be sent to, ...	"	37, cl. 2
to send such registers to secretary to government	"	37, cl. 2
notice of intended marriage before, ...	"	38
of each of different districts, notice to, ...	"	38
to publish notice in his office ...	"	39
to send copies to other registrars ...	"	39, cl. 2
to file notices and copy them in marriage-notice-book	"	40
to issue certificate of notice given ...	"	41
oath to be made before, ...	"	42
petition for order upon, to issue certificate in less than fourteen days ...	"	43

	Act.	Sec.
MARRIAGE REGISTRAR (*concluded*)		
to issue certificate according to order ...	XV	43, cl. 3
protest against issue of certificate by, ...	"	44, cl. 2
examination by, into matter of protest ...	"	44, cl. 3
when to issue forbidden certificate ..	"	45, cl. 7
procedure on refusal of certificate by, ...	"	46
to act according to order on petition against his refusal of certificate	"	46, cl. 3
in native state, petition on refusal of certificate by, ...	"	47
to act according to order on petition ...	"	47, cl. 2
petition by, when he doubts authority of person forbidding certificate ...	"	48
when to issue certificate in such case ...	"	48, cl. 5
in native state, procedure of, when he doubts authority to forbid certificate ...	"	48, cl. 6
when to issue certificate in such case ...	"	48, cl. 8
liability for protest against certificate declared by, to be frivolous	"	49
form of certificate to be issued by, ...	"	50
forms to be supplied to, ...	"	50, cl. 2
solemnization of marriage after issue of certificate by, ...	"	51
marriages to be solemnized in presence of,	"	51, cl. 4
certificates to be delivered to, ..	"	51, cl. 4
effect of marriage not being had within two months after entry of notice by, ...	"	52
not to enter marriage in such case ...	"	52, cl. 2
may ask for particulars to be registered ...	"	53
to register marriages	"	54
to sign entry of marriage	"	54, cl. 2
to send certificates to secretary to government	"	55
to send register-books, when filled, to secretary to government	"	55, cl. 2
in native state to whom to send certificates	"	56
procedure of, on notice of marriage or application for certificate by native christian	"	57
penalty for forbidding, by false personation, issue of certificate by, ...	"	67
penalty for solemnizing marriage by person not authorized to do so in absence of, ...	"	68
penalty on, for certain offences ...	"	71, 72
penalty for issuing certificate or solemnizing marriage without sending notice to, ...	"	73, cl. 6
to allow searches and give copies ...	"	79
MARRIAGE REGISTRARS may solemnize marriages	XV	5 (4)
power to appoint, ...	"	7
in native states, power to appoint, ...	"	8
of different districts	"	38, cl. 2, 51, cl. 2
fees for certificates issued and marriages registered by, ...	"	82, cl. 2
fees for protests against, or prohibitions of, certificates by, ...	"	82, cl. 3
MARRIAGES of doubtful validity, Act to legalize certain,	III	
between what persons solemnizable ...	"	2
upon what conditions solemnizable ...	"	2
under Act, Divorce Act to apply to, ...	"	17

	Act.	Sec.
MARRIAGES (*concluded*)		
under Act, may be declared null or dissolved ...	III	17
See *Issue, Prohibition.*		
solemnized otherwise than under Act, saving of, ...	"	19
contracted before passing of Act, registry of, ...	"	20
of christians, Act to consolidate and amend the law relating to the solemnization in India of, ...	XV	
confirmed by, or solemnized under, repealed enactments not invalidated	"	2
persons who may solemnize, ...	"	4—9
to be solemnized according to Act	"	4
solemnized otherwise void	"	4
time and place for solemnizing, ...	"	10, 11
by licensed ministers of religion	"	12—26
solemnized by ministers of religion, registration of, ...	"	27—37
to be registered	"	27, 28, 30, 31, 32, 37
solemnized by, or in presence of, marriage registrars ...	"	38—59
under Part V, provisions as to consent applied to, ...	"	44
of native christians	"	60—65
of Roman catholics, Part VI not to apply to, ...	"	65
saving of certain, ...	"	65
solemnized under special license, saving of, ...	"	69, cl. 2
not void for irregularity as to certain matters ...	"	77
between subjects of foreign states, saving of, ...	"	87
within prohibited degrees not validated ...	"	88
See *Ceremony, Certificate, Church, Clergymen, Consent, Dwelling, Father, Form, Guardian, Minor, Native christians, Notice, Prohibition, Publication, Register-book, Registrar general, Solemnization.*		
MARRIED PERSON marrying again, penalty on, ...	III	15, 16
MARRIED WOMAN, sanction necessary to prosecution for enticing away, ...	X	479
MARRIED WOMEN, see *Income.*		
MARRYING AGAIN, penalty for, ...	III	15, 16
MASTER of British merchant ship, power of, to arrest deserters ...	X	106
of injured person, &c., objectionable juror	"	244
defined	XXIII	1
duplicate of certificate to be sent to, ...	"	2, para. 2
to whom to deliver goods	"	3
failing to deliver goods, penalty on, ...	"	5
See *Native passenger-ship.*		
MATE of British merchant ship, power of, to arrest deserters ...	X	106
"MATERIAL CIRCUMSTANCE"	IX	143, 215
MATERIAL ERROR in charge, duty of appellate or revision court in case of, ...	X	451
"MATERIALLY defective knowledge"	IX	198
"MATERIAL PART of the transaction"	IX	142
MATERIAL WITNESS, duty of court or magistrate to summon, ...	X	351
to be summoned in warrant cases ...	"	362
MATRIMONIAL JURISDICTION, relevancy of judgments in, ...	I	41
MATRIMONY, declaration as to absence of impediment to, ...	XV	51, cl. 5
MATTER of fact, confirmation of decision of court of original jurisdiction on, final	VII	34
MATTERS of state, document produced by witness referring to, ...	I	162
marriages not void for irregularity as to certain, ...	XV	77
MAULMAIN, see *Judge, Recorder, Recorders.*		
"MAY PRESUME" defined	I	4

	Act.	Sec.
MEANING of words or terms, relevancy of opinions as to, ...	I	49
MEASURE of damages	IX	73
MEASURES, offences relating to, may be tried summarily ...	X	222
mode of recording evidence in cases not tried summarily	,,	333, 336
search by officer in charge of police-station for false, ...	,,	381
MEDICAL OFFICER, when body of deceased person to be forwarded to,	X	133
ordinarily to be present at whipping ...	,,	311
at whipping to certify fitness of offender's health	,,	312
to be examined as witness in trying soundness of mind	,,	423
in charge of corps or detachment ...	XXI	3
MEDICAL OFFICERS on committee for examination of alleged lunatic	XXI	3
MEDICAL WITNESS, examination of, may be put in, or witness may be called	X	323
MEDICINE for lunatic, payment for, ...	XXI	5
MEMBER of village-community, claim of, to pre-emption ...	IV	14, third
MEMORANDUM of evidence, presumption as to, ...	I	80
of appeal when to be presented	VII	28
of evidence in summons cases and in trials of certain offences	X	333
in other cases	,,	334
of examination of accused	,,	346
MENTAL condition included in "Fact"	I	3
distress, undue influence in case of, ...	IX	16, cl. (2)
MERCANTILE usages when valid	IV	7
MERCHANT SHIPPING, arrest of deserters from, ...	X	106
MERITS of the case, decision of questions as to pre-emption according to, ...	IV	16
METAL used as money, see '*Coin' defined.*		
MILITARY, see *Native.*		
MILITARY CIRCLE, see *Paymaster.*		
MILITARY ESCORT for lunatic going to asylum	XXI	4
MILITARY FORCE, when magistrate may use, to disperse unlawful assembly	X	482
use of, by magistrate, when no offence ...	,,	483
MILITARY OFFICERS, liability of, to serve as jurors ...	VII	56, cl. 2
summons to, how to be sent	,,	56, cl. 4
not excusable from service except for urgent military duty	,,	56, cl. 4
MILITARY REGULATIONS, discharge of lunatic according to, ...	XXI	4, par. 2
MILITARY SERVICE, persons in, ordinarily exempted from serving as jurors or assessors	X	406
MIND, state of, see *Relevancy of facts.*		
unsoundness of, see *Lunatic.*		
MINES, see *Salt mines.*		
MINISTER of foreign state, saving of marriages performed by, between subjects of such state	XV	87
MINISTERIAL OFFICERS, appointment of, ...	VII	24
power to fine, suspend and remove, ...	,,	25
control over appointments and removals of, ...	,,	27
of recorder's court, appointment, removal and suspension of, ...	,,	61
MINISTERS OF RELIGION, marriages may be solemnized by, ...	XV	5 (3)
licensing of, to solemnize marriages ...	,,	6
licensed under Act, marriages solemnized by	,,	12-26

	Act.	Sec.
MINISTERS OF RELIGION, (*concluded*)		
notice of intended marriage to be given to, ...	XV	12
to publish notice, or return or transfer it	,,	13
when to send notice to marriage registrar	,,	14
to send copy of notice to marriage registrar	,,	15
to give certificate of receipt of notice and declaration	,,	17
declaration to be made before, ...	,,	18
power to prohibit issue of certificate by, ...	,,	20
procedure of, on receipt of notice of prohibition	,,	21
issue of certificate by, in case of minority	,,	22
issue of certificate by, to native christians	,,	23
solemnization by, of marriage ...	,,	25
certificate issued by, when void ...	,,	26
registration of marriages solemnized by,	,,	27—37
marriages solemnized by, to be registered in duplicate	,,	32
penalty on, for solemnizing marriage contrary to Act	,,	70
See *Notice, Publication.*		
MINOR, agreement in restraint to marriage of, ...	IX	26
cannot be a principal	,,	183
may be an agent	,,	184
partner not personally liable	,,	247
his liability on attaining majority	,,	248
defined	XV	3
sending copy of notice when one of the persons intending marriage is a, ...	,,	15, 39
addition to declaration in case of, ...	,,	18 (*b*)
who may give consent to marriage of, ...	,,	19
consent to marriage of, when necessary	,,	19, cl. 2
issue of certificate in case of, ...	,,	22
publication of notice when one of the parties intending marriage is a, ...	,,	39
time to elapse before issue of certificate in case of, ...	,,	41, prov. (4)
oath as to consent to marriage of, ...	,,	42 (*c*)
petition for order to issue certificate in case of, ...	,,	43
provisions applied to marriages either party to which is a,	,,	44
penalty for offence against Act in case of, ...	,,	70, 71 (3), 72, 73, cl. 6
MINORITY, rule of decision in questions as to, ...	IV	5
See *Jurisdiction of court of wards.*		
MINORS and court of wards	IV	34—38
See *Appeal, Estates, Jurisdiction.*		
MISCELLANEOUS PROVISIONS...	X	415—22
seizure of stolen property by police; report to magistrate; magistrate may sell perishable property	,,	415
proclamation where owner unknown ...	,,	416
where no one proves title to such property, who may sell; appeal	,,	417
criminal court may pass order as to disposal of property	,,	418
court of appeal, reference or revision may stay, &c., such order	,,	419

	Act.	Sec.
MISCELLANEOUS PROVISIONS (*concluded*)		
order may take form of reference to magistrate of district or magistrate of division of district ...	X	420
local government, subject to governor general's sanction, may make rules for payment of expenses of complainants and witnesses by criminal courts	,,	421
interpreter to be bound to interpret truthfully ...	,,	422
PART XII—MISCELLANEOUS—CHAPTER XLII, containing, ...	,,	539—41
procedure of Act to be followed in miscellaneous criminal cases and proceedings	,,	539
saving of jurisdiction of commissioners of police, &c., in presidency towns	,,	540
saving of jurisdiction and procedure of landholders, heads of villages, village police officers and cantonment magistrates	,,	541
MISCHIEF when triable summarily	X	222
mode of recording evidence if not tried summarily ...	,,	333, 336
and theft, joinder of charges of, ...	,,	454, ills. (*i*), (*k*)
MISCONDUCT, compensation for consequences of agent's, ...	IX	212
agent guilty of, ...	,,	220
See *Gross misconduct, Insolvent.*		
MISDIRECTION to jury, when fatal	X	283
a ground of revision	,,	299
MISLEADING	IX	18, cl. (2)
'MISREPRESENTATION' defined	IX	18
consent caused by, ...	,,	19
invalidity of guarantee obtained by, ...	,,	142
of agent, effect of, ...	,,	238
MISTAKE as to substance of subject of agreement	IX	18, cl. (3)
rendering an agreement void	,,	20
as to law in force in British India	,,	21
as to law not in force in British India	,,	21
goods left by, ...	,,	70, ill. (*a*)
responsibility of person to whom payment or delivery has been made by, ...	,,	72
See *Re-payment, Return.*		
in amount of bail	X	392
MIXTURE of bailor's goods with bailee's goods	IX	155, 156, 157
MODE of conferring powers	X	43
MODIFICATIONS in Panjáb salt rules	XXV	1
MONEY, except in bad livelihood cases, receivable in lieu of bail ...	X	399
See '*Coin*' *defined.*		
MONTH to be entered	XV	schs. III & IV
MORTGAGE of property subject to pre-emption	IV	13
order in which right to redeem, may be exercised ...	,,	14
MORTGAGEE, production of mortgage-instrument by, ...	I	130
MORTGAGES, pre-emption extends to foreclosure of, ...	IV	10
MORTGAGOR, claim to pre-emption in order of relationship to, ...	IV	14, first
MOTHER of minor may give consent to his marriage ...	XV	19, 44
MOTIVE for fact in issue or relevant fact	I	8
MOVEABLE PROPERTY, see *Debtor.*		
exemption of, from income-tax ...	VIII	3
included in 'Goods' ...	IX	76
agreement for sale of immoveable and ...	,,	85
See *Goods.*		
MUHAMMADAN, see *Marriage.*		
MUHAMMADAN LAW, see *Law, Native law.*		

	Act.	Sec.
MUHAMMADANS, rule of decision where parties are, ...	IV VII	5 (2) 6
MUKHTÁR, his agreement to exercise influence	IX	23, cl. (*j*)
MUKHTÁRS may, with permission of court, appear for defence ...	X	186
MUNICIPAL ACTS, certain offences against, triable summarily ...	X	225
MUNICIPAL BODY in British India, proof of proceedings of, ...	I	78
meaning of 'Collector' in case of, ...	VIII	2
MUNICIPAL COMMITTEES in the Panjáb, Act to revive and continue the Act relating to, ...	II VIII	8
MUNICIPALITY, deduction of income-tax from servants of, ...	X	68
MURDER as a thug where triable		
charges of, ...	"	439, ills. (*a*), (*c*); 441, ill. (*e*); 443, ills. (*d*), (*e*); 457, ill. (*b*)
joinder of charges of, ...	"	454, ill. (*h*)
and culpable homicide, forms of charge of, ...	"	sch. III
MUTINY ACT, obedience by officer or soldier to order given in accordance with, no offence	X	486
NAME given by law to offence to be stated in charge... ...	X	439
grant of license by, ...	XV	9
of person forbidding issue of certificate to be subscribed ...	"	44, cl. 2
See *Contents, Particulars.*		
NAMES of Indian public officers, when court must take judicial notice of, ...	I	57
of jurors to be called	X	243
to be given	XV	schs. I to IV
NARRATIVE, evidence to be recorded in form of a, ...	X	338
NATAL, British subjects born, &c., in the colony of, are European British subjects	X	71
NATIONAL FLAG of foreign state, &c., when court must take judicial notice of, ...	I	57
NATIVE BOAT, person in charge of, included in 'Master' ...	XXIII	1
'NATIVE CHRISTIANS' defined	XV	3
persons licensed to grant certificates of marriage between, may solemnize marriages	"	5 (5)
licensing of persons to grant certificates of marriage between, ...	"	9
issue of certificates to, ...	"	23
registration of marriages between, ...	"	37, 59
to be enabled to understand notice and certificate	"	57
to be enabled to understand declarations made at marriage	"	58
conditions on which marriages of, may be certified	"	60
NATIVE INDIAN STATES, see *British subjects, Dominions.*		
NATIVE INDIAN SUBJECTS of Her Majesty beyond British India	XI	1, 3, 13
of Her Majesty beyond British India, Act applies to all, ...	XII	1
NATIVE LAW OR CUSTOM, decisions in certain cases to be according to,	IV	5
See *Adoption, Bastardy, Betrothal, Caste, Dower, Family relations, Females, Gifts, Guardianship, Inheritance, Law, Legacies, Marriage, Minority, Partition, Religious usage, Succession, Wills.*		

	Act.	Sec.
NATIVE MILITARY LUNATICS ACT, 1872	XXI	
NATIVE OFFICER employed in collection of revenue or rent, duty of, as regards report of certain matters ...	X	90
NATIVE OFFICERS, NON-COMMISSIONED OFFICERS OR SOLDIERS—		
report of insanity of, ...	XXI	2
examination of, ...	,,	3
order for reception of, into asylum	,,	4
reception and detention of, in asylum	,,	4 par. 2
payment of expenses of, ...	,,	5
legalization of past admissions of, ...	,,	6
NATIVE OF INDIA, see *Attendants*.		
'NATIVE PASSENGER SHIP' defined	XII	2
penalty on master of, entering Indian port from Turkish port without clean bill of health	,,	5
NATIVE PASSENGER SHIPS ACT amended	XII	
NATIVE PRINCES, Act extends to dominions of, ...	XXI	1
NATIVES OF ASIA OR AFRICA, exemption from Act of steamers carrying limited number of, ...	XII	1
NATIVES OF INDIA converted to christianity, christian descendants of, included in 'Native christians' ...	XV	3
'NATIVE STATE' defined	{ XI XV	3 3
petition against refusal of certificate by registrar in, ...	XV	47
reference by registrar in, when he doubts authority to forbid certificate	,,	48
NATIVE STATES, proof of cessions to, ...	I	113
exercise and delegation by governor general of his powers in, ...	XI	4
appointment, &c., of justices of the peace in, ...	,,	6
confirmation of existing officers in, ...	,,	7
extension of criminal law to British subjects in, ...	,,	8
liability of British subjects for offences committed in, ...	,,	9
Act extends to christian subjects of Her Majesty in, ...	XV	1
marriage registrars in, ...	,,	8
licensing in, of persons to grant certificates of marriage between native christians ...	,,	9
marriage registrars in, to whom to send certificates	,,	56
marriage-certificates from, to be sent to Home Department	,,	81
power to make rules for, as to fees, register-books and returns of marriages	,,	84
in Bombay and Madras, exercise in regard to, of powers of governor general	,,	86, cl. 2
Act extends to dominions of, ...	XXI	1
NATIVE TROOPS of Her Majesty, when and how to disperse unlawful assembly	X	484
NATURAL AFFECTION, agreement made on account of, ...	IX	25, cl. (2)
NATURAL PRODUCTS, see *Government land*.		
NAVIGATION, prevention of injury to mark used for, ...	X	98
NAVY of Her Majesty, see *Articles of war*.		
NECESSARIES supplied to persons incapable of contracting ...	IX	68
supplied to person whom an incapable person is legally bound to support ...	,,	68

	Act.	Sec.
NECESSARY EXPENSES for purpose of bailment	IX	158
incurred by pawnee	"	173
NEGATIVING of exceptions in charges unnecessary	X	439
NEGLECT to give reasonable facilities for performance of promise ...	IX	67
compensation for consequences of agent's, ...	"	212
compensation for injury caused by principal's, ...	"	225
of co-partner	"	250
NEGLIGENCE, facts shewing existence of, ...	I	14
NEGOTIABLE INSTRUMENTS endorsed in blank, unauthorized sale by agent of, ...	IX	237, ill. (*b*)
'NEW MANUFACTURE' defined	XIII	2
what included in, ...	"	2
NEW MATTER introduced in re-examination	I	138
cross-examination upon,	"	138
NEWSPAPERS, presumption as to genuineness of, ...	I	81
NEW TRIAL, improper admission or rejection of evidence when no ground for, ...	I	167
power of recorder to grant, ...	VII	46
power of judicial commissioner to grant, ...	"	52
may be ordered where accused person or prosecutor is prejudiced by investigation, inquiry or trial being held in wrong place	X	70
owing to absence of juror	"	254
in absence of assessors	"	259
may be ordered by high court on appeal from judgment of acquittal	"	272
when appellate court may order, ...	"	284
high court may order, on reference	"	288
revision court may order, ...	"	297
may be ordered by high court on ground of mis-direction of jury	"	299
when may be ordered in consequence of conviction being based on evidence partly recorded by one officer and partly by another	"	328
when may be ordered on amendment of charge ...	"	448
when to be ordered in consequence of material error in charge	"	451
NEW ZEALAND, British subjects born, &c., in, are European British subjects	X	71
NON-BAILABLE OFFENCE, information regarding commission of, or intention to commit, ...	X	90
and also cognizable, when private persons may arrest for, ...	"	105
when police may and may not admit to bail person accused of, ...	"	125, 128
person accused of, who has eluded pursuit; warrant may be directed to landholder	"	162
when magistrate may and may not admit to bail	"	389
custody of lunatic accused of, ...	"	426
'NON-BAILABLE OFFENCE OR CASE' defined	X	4
NON-COGNIZABLE OFFENCE, police how to act in case of, ...	X	93
mode of procuring witnesses in summons cases	"	361
'NON-COGNIZABLE OFFENCE OR CASE' defined	X	4
NON-COMMISSIONED OFFICERS exempted from income-tax ... See *Native officers.*	VIII	3
NON-COMPLIANCE with order of magistrate to furnish security to keep the peace, imprisonment for, ...	X	497

	Act.	Sec.
NON-EXISTENCE of facts, evidence of, ...	I	5
NON-EXISTENT GOODS, contract for sale of, ...	IX	87
NON-REGULATION PROVINCES, power of local government to declare what officers shall exercise functions in, ...	X	sch. IV, note 5th
'NORTH-WESTERN PROVINCES,' 'Panjáb' substituted for, ...	IV	sch. I, col. 3
Act extends to, ...	XXII	5
NOTARY PUBLIC, seal of, judicially noticed	I	57
NOTICE to produce, rules as to, ...	I	66
party producing document produced under, entitled to have it in evidence	,,	163
if production refused, when party refusing can afterwards give document in evidence...	,,	164
See *Presumption.*		
of intended marriage to be given to registrar in writing ...	III	4
of objection to marriage, procedure on receipt of, ...	,,	7
See *District, Form.*		
by vendor or mortgagee of property subject to pre-emption	IV	13
to treasurer, &c., to produce accounts	VIII	12
to trustee, &c., for statement of income	,,	18
requiring return of income	,,	22
contents of, ...	,,	22
for list of lodgers and employees	,,	24
to be served on person chargeable	,,	27
contents of, ...	,,	27
effect of service of, under section 22	,,	30
effect of service of, under section 27	,,	30
power to issue fresh, ...	,,	34
provisions to apply to, ...	,,	34
procedure under, ...	,,	34
of revocation by proposer	IX	6, cl. (1)
of intention to claim compensation for non-performance of promise at time agreed	,,	55
of seller's claim to stop in transit	,,	104
to whom given ...	,,	105
to buyer of intention to re-sell	,,	107
of intention to claim compensation for loss caused by breach of warranty	,,	118
of revocation of continuing guarantee	,,	130
of revocation or renunciation of agency	,,	206
of agent's want of skill	,,	212
to agent, consequences of, ...	,,	229
of repudiation of partnership	,,	248
of restriction on power of a partner	,,	251, excep.
of dissolution of partnership	,,	264
to accused in summons cases	X	203
to accused; charge when to contain part of definition of offence	,,	439
particulars sufficient for, as to time, place and person injured	,,	440
of commitment to public prosecutor, &c.	,,	202
that objections will be heard to list of jurors and assessors	,,	401
to postal authorities to detain letter	,,	369
to show cause when to be given to surety to bail-bond ..	,,	397
of intended marriage	XV	12
publication, return or transfer of ...	,,	13
in private dwelling	,,	14

	Act.	Sec.
NOTICE (*concluded*)		
of intended marriage, sending copy of, to marriage registrar	XV	15, 16
procedure on receipt of, ...	,,	16
certificate of receipt of, ...	,,	17
prohibiting issue of certificate by minister	,,	20
procedure on receipt of, ...	,,	21
time to elapse after receipt of, before issue of certificate ...	,,	22
of intended marriage of native christian	,,	23
when certificate void, marriage not to be solemnized until issue of new,	,,	26, cl. 2
before marriage registrar ...	,,	38
to be sent to registrar of district in which parties dwell	,,	38
or to registrar of each of different districts	,,	38, cl. 2
contents of,...	,,	38, cl. 3
publication of, ...	,,	39
sending copies of, to other registrars in case of minor	,,	39, cl. 2
filing of, and entry in book ...	,,	40
See *Certificate, Party.*		
entry opposite, of prohibition of certificate	,,	44, cl. 2
to registrars of different districts ...	,,	51, cl. 2
when void	,,	52
issue of new, ...	,,	52, cl. 2
by native christian, procedure on, ...	,,	57
native christian to be enabled to understand, ...	,,	57
under Part III, certifying of native christian marriages without, ...	,,	60
penalty for signing false, ...	,,	66
solemnizing marriage without, or before expiry of fixed time after receipt of,... ...	,,	70
issuing certificate without publishing, ...	,,	71 (1), 73, cl. 5
solemnizing marriage before expiry of fixed time after receipt of, or without sending copy of, ...	,,	71 (3)
issuing certificate after expiry of, ...	,,	72
before expiry of fixed time after entry of, ...	,,	72, cl. 2
solemnizing marriage without publishing, ...	,,	73, cl. 5
issuing certificate or solemnizing marriage before expiry of fixed time after receipt of, or without sending copy of, ...	,,	73, cl. 6
marriage not void for irregularity as to, ...	,,	77, (2)
that goods will be sold if not cleared	XXIII	4
NOTICES to be filed, and copies entered in marriage-notice-book ...	III	5
service of, ...	VIII	44
power to prescribe form of, ...	,,	46 (*a*)
fees for receiving and publishing, ...	XV	82, cl. 1
NOTIFICATION in *Gazette of India* of cession of British territory	I	113
of exercise or delegation of powers of governor general out of British India, effect of, ...	XI	5
of law for offence against which, in native state, warrant may issue	,,	11
of exemption of straits settlements from Emigration Act	XIV	1

	Act.	Sec.
NOTIFICATION, (*concluded*)		
power to revoke or alter, ...	XIV	1
appointment of marriage registrar by, ...	XV	8
of grant and revocation of licenses to give certificates of marriage between native christians ...	"	9
appointing officers to receive certificates from registrars in native states	"	56
declaring who in any place is 'district judge' ...	"	85
power to alter by, ...	XXV	1 (*f*)
NOTIFICATIONS, statement of fact in government, ...	I	37
of government, how proved	"	78
under repealed Acts or sections to be considered to have been made under corresponding section of Act	X	2
of substance of warrant	"	176
'NOT PROVED,' when a fact is said to be, ...	I	3
NUISANCE, power to prohibit repetition of, inherent in magistrates of districts and of divisions of districts; may be conferred on others	X	22—30
who may enjoin persons not to repeat or continue public, ...	"	519
in public place, removal of, ...	"	521
NULL, see *Marriages*.		
NUMBER of witnesses	I	134
of jury to be fixed by local government	X	236
to certificate of marriage	XV	33, cl. 2; 34, cl. 3; 35, 54, cl. 3
to entry of marriage	"	33, cl. 2; 54, cl. 3
of copy of certificate	"	35, 36
of packages	XXIII	sch.
NUMBERS and marks	XXIII	sch.
OATH proposed by party, opposite party or witness may be asked whether he will take, ...	VI	4, cl. 2
administration of, if accepted	"	4, cl. 3
procedure on party or witness refusing to take, ...	"	4, cl. 5
or affirmation, omission of, or substitution of one for another, or irregularity as to, not to invalidate evidence or proceedings	"	5
examination of witnesses upon, ...	X	331
not to be administered to accused	"	345
by one of the parties intending marriage	XV	41, 42
penalty for false, ...	"	66
See *Solemn*.		
OATHS AND AFFIRMATIONS, Act to amend the law relating to, ...	VI	
tendered by parties or witnesses in judicial proceedings, powers of court as to certain, ...	"	4
prescribed by certain laws, saving of,...	"	6
OBJECT of an agreement when lawful	IX	23
OBJECTION to intended marriage	III	6
procedure on receipt of notice of, ...	"	7
to composition, court to decide as to, ...	IV	28
OBJECTIONS to jurors, how made and allowed	X	243
which may be taken to jurors	"	244, 405
to list of jurors and assessors, notice of hearing, ...	"	401
hearing of, ...	"	402

	Act.	Sec.
OBJECTOR may file suit to prevent marriage	III	7, cl. 2
See *Fine.*		
OBLIGATION resembling those created by contract	IX	68—72
compensation for breach of, ...	,,	73
of bailor to disclose faults in goods bailed ...	,,	150
of bailee to return or deliver...	,,	160
arising from agent's acts, consequences of, ...	,,	226
OBSOLETE EXPRESSIONS, evidence admissible to shew meaning of,...	I	98
OBSTRUCTING police officer, arrest of person for, ...	X	92
public servant, charges of, ...	,,	441, ill. *(d)*
OBSTRUCTION, power to issue order to prevent, inherent in magistrates of districts and of divisions of districts; may be conferred on others	X	22—30
orders to prevent, ...	,,	518
in public place, removal of,—definition of public place	,,	521
OCCASION of relevant facts or facts in issue	I	7
OCCUPANCY, to what rights of, pre-emption may be presumed to extend	IV	11
See *Tenants.*		
OCCUPANT of house or place to witness search	X	385
OCCUPATION, suppression of injurious, ...	X	521
OCCUPIER of land, duty of, as regards report of certain matters...	X	90
OFFENCE, conspiracy to commit, ...	I	10
magistrate and police officer not compellable to disclose source of information as to commission of, ...	,,	125
under section 494 or 495 of penal code	III	15, 16
199 of penal code	,,	21
under penal code, see *Foreign vagrants.*		
committed by person in possession of goods, or those whom he represents	IX	108
goods or documents obtained by, ...	,,	178
where to be inquired into, see *Place of inquiry and trial.*		
information regarding commission of non-bailable, or intention to commit, ...	X	90
cognizable, see *Arrest without warrant, Investigation by the police.*		
police how to act in case of non-cognizable, ...	,,	93
compensation for, ...	,,	308
in case of bailable, magistrate to admit to bail ...	,,	388
to be stated in charge	,,	439
mode of charging when doubtful what, committed ...	,,	455
to be specified in judgment	,,	461, 464
exclusively triable by court of session, committed before magistrate not empowered to commit; procedure ...	,,	477
commission of any, is breach of bond to keep the peace...	,,	502
commission of, by person bound to be of good behaviour, a breach of bond	,,	514
under section 193 of penal code	XV	66
205 of penal code	,,	67
166 of penal code	,,	72
OFFENCES committed in British Burma, commitments of European British subjects for, ...	VII	55
committed by European British subjects how to be dealt with	X	11
not punishable with death triable by certain officers in certain provinces and districts in their magisterial capacity	,,	36
being magistrate's cases, committed by European British subjects, by whom triable	,,	74

	Act.	Sec.
OFFENCES, (*concluded*)		
in case of, committed by European British subjects, not adequately punishable by magistrate and not punishable with death or transportation for life, offender to be committed to court of session	X	75
in case of, punishable with death or transportation for life, offender to be committed to high court ...	"	75
of the commission of which information must be given...	"	89—91
for which police may arrest without warrant ...	"	92
which may not be taken up without complaint, or without sanction	"	142
procedure for compounding, ...	"	188
which disqualify persons from serving as jurors or assessors	"	405
joinder of, see *Joinder of charges.*		
when said to be of same kind	"	453, exp.
against the state, sanction necessary for prosecution of,	"	465
against public justice and relating to documents, sanction to prosecute, ...	"	468, 469
not defined	"	sch. IV, note 1st
against other laws	"	sch. IV, note 6th
See *Trial.*		
committed in places beyond British India, Act to provide for trial of, ...	XI	
limitation of prosecutions for, ...	XV	76
in respect of opium, prosecutions in the Panjáb for, ...	XXVI	4
OFFENSIVE QUESTIONS, court to forbid needlessly, ...	I	152
OFFER to sell property subject to pre-emption	IV	13, 14, 15
to perform promise	IX	37
conditions which it must fulfil	"	38
to one of several joint promisees	"	38
OFFICE of registrar, marriage may be solemnized at or near, ...	III	12
conditions and fees to be prescribed for marriages solemnized elsewhere than in, ...	"	12
grant of license as holding any, ...	XV	9
of marriage registrar, publication in, of notice of intended marriage	"	14, 16, 39
filing in, of notices	"	40
of secretary to local government, registers to be kept with records of, ...	"	37, cl. 2 55, cl. 2
OFFICER, Act not applicable to affidavits presented to, ...	I	1
of company may be required to attend and produce accounts	VIII	12
authorised to order removal of persons for transportation	X	319
sanction necessary for prosecution of, for act done in dispersing unlawful assembly by military force ...	"	488
appointed to exercise powers of political agent included in 'Political agent'	XI	3
appointed to represent British Government, see *Political agent.*		
See *General officer.*		
OFFICER COMMANDING REGIMENT or detachment, to report insanity of native officer or soldier	XXI	2
OFFICER COMMANDING STATION to send list of officers liable to serve as jurors ...	VII	56, cl. 3

	Act.	Sec.
OFFICER COMMANDING STATION, (*concluded*)		
summons to officers to serve as jurors to be sent through, ...	VII	56, cl. 4
to name substitute for officer excused on account of military duty	,,	56. cl, 4
OFFICER COMMANDING TROOPS obeying requisition to disperse unlawful assembly, when protected	X	485
OFFICER COMMANDING WING or squadron to be on committee for examining lunatic... ...	XXI	3
OFFICER, COMMISSIONED, of her majesty's troops, when may order dispersion of unlawful assembly by military force	X	487
'OFFICER EXERCISING THE POWERS OF A MAGISTRATE' means a magistrate of the first class ...	X	2
OFFICER IN CHARGE OF ASYLUM to receive lunatic... ...	XXI	4 par. 2
payment to, of expenses ...	,,	5
OFFICER IN CHARGE OF JAIL—		
to forward appeal	X	277
to receive copy of high court's order in reference-case through court of session	,,	301
how to receive in other cases	,,	302
to cause warrant of execution to be executed, and endorse certificate on warrant for information of court	,,	305
See *Jailor*.		
OFFICER IN CHARGE OF POLICE STATION—		
report to be made to, of certain matters connected with crime	X	90
power of, to arrest vagabonds	,,	94
person arrested without warrant to be taken before,...	,,	101
procedure when he requires subordinate to make arrest	,,	102
may investigate cognizable offences	,,	109
how to deal with complaint	,,	112
procedure of, if complaint disclose non-cognisable offence	,,	113
when to make local investigation; jurisdiction to investigate; effect of irregularity	,,	114
when may dispense with local inquiry ...	,,	116, 117
power of, to summon and interrogate witnesses ...	,,	118
oral examination of witnesses by, ...	,,	119
procedure when person arrested appears guilty; power over subordinates	,,	123
procedure of, where evidence appears insufficient ...	,,	125
may forward recusant complainants or witnesses in custody	,,	131
to report all apprehensions and detentions to magistrate of district or magistrate of division of district	,,	132
to inquire into cases of unnatural or sudden death...	,,	133
may summon persons to assist in inquest and to give information	,,	134
substitute for, in case of absence or illness ...	,,	136
superior officers of police may exercise powers of, throughout their jurisdictions	,,	137
when powers of, except as to arrests, may be conferred on private person	,,	146

	Act.	Sec.
OFFICER IN CHARGE OF POLICE STATION, (*concluded*)		
warrant of arrest, to be executed beyond magistrate's local jurisdiction, may be taken to, ...	X	168
power of, to issue summons to produce document ...	,,	365
power of, to issue search-warrant to discover document	,,	366
may search; when may issue order in writing to search	,,	379
may require officer in charge of another station to search; powers and duties of such officer ...	,,	380
may enter shop or premises and search for false weights, &c.	,,	381
may command unlawful assembly, &c., to disperse ...	,,	480
may call on public to aid dispersion of assembly by force	,,	481
OFFICER IN COMMAND OF TROOPS, duty of, to obey requisition to disperse unlawful assembly; how to act... ...	X	484
OFFICER OF CUSTOMS, goods liable to seizure by, ...	XXIII	6
OFFICER OF POLICE, goods liable to seizure by, ...	XXIII	6
OFFICER OF TROOPS (subordinate) when protected in dispersing unlawful assembly	X	486, 487
OFFICERS exempted from income-tax	VIII	3
to whom marriage registrars in native states to send certificates	XV	56
receiving marriage-certificates from native states to send certain of them to Home Department	,,	81
appointed by governor general, delegation to, of his powers	,,	86
empowered by government may define areas of jurisdiction of persons exercising powers of deputy collectors	XXII	3
of court, see *Administration*.		
OFFICES, duty on, ...	VIII	5
OFFICIAL CHARACTER, presumption as to,...	I	79
OFFICIAL COMMUNICATIONS, when public officer not compellable to disclose	I	124
OFFICIAL TRUSTEE chargeable with income-tax	VIII	19
may retain duty	,,	20
OLD AGE, person of extreme, when incompetent as witness ...	I	118
undue influence in case of, ...	IX	16, cl. (2)
OMISSION specially declared to be fraudulent	IX	17, cl. (5)
to draw up charge, effect of, in warrant trials; omission how supplied	X	216
in charge, effect of, ...	,,	443
See *Oath*.		
ONUS, see *Burden of proof*.		
OPEN COURT, place where inquiry or trial is held an, ...	X	187
OPINION, holding a certain, is a fact	I	3, ill. (*d*)
on foreign law, &c., relevancy of, ...	,,	45
relevancy of facts bearing upon, ...	,,	46
of third person, when relevant	,,	45—51
as to handwriting, relevancy of, ...	,,	47
as to existence of general custom or right, relevancy of,	,,	48
as to usages, tenets, meaning of terms, &c., relevancy of,	,,	49
as to relationship, relevancy of,...	,,	50
of expert expressed in treatise, when proved by its production	,,	60
relevancy of grounds of, ...	,,	51
of court making reference to be submitted ...	VII	31, 47

	Act.	Sec.
OPINION (*concluded*)		
of assessors when to be taken	X	255
of assessors to be recorded	,,	262
difference of, how decided in high court	,,	271
difference of, between judge and collector how settled ...	,,	402
judge may express his, in summing up	,,	256
OPIUM, regulation of growth, sale and keeping of, ...	IV	49
in the Panjáb, amendment of law relating to, ...	XXVI	
defined	,,	2
what included in, ...	,,	2
grown in Panjáb, modification of Excise Act, 1871, in respect to sale or possession of, ...	,,	3
prosecutions in the Panjáb for offences in respect of, ...	,,	4
confiscation of, ...	,,	5
OPPORTUNITY for occurrence or transaction of relevant facts or facts in issue	I	7
to show cause must be afforded person whom it is desired to bind to keep the peace	X	492
OPTIONAL with high court to hear parties on revision ...	X	297
ORAL ADMISSION as to contents of document, relevancy of, ...	I	22
ORAL AGREEMENT, evidence of, not admissible to vary terms of written contract	I	92
ORAL EVIDENCE	I	59, 60
defined	,,	3
must be direct	,,	60
of contents of document, secondary evidence ...	,,	63
of dumb-witness	,,	119
exclusion of, by documentary evidence ...	,,	91—100
of statements by other persons of contents of documents when admissible	,,	144
proof of facts by, ...	,,	59
ORAL EXAMINATION by police	X	119
ORAL GUARANTEE	IX	126
ORDER of production of witnesses	I	135
of examinations of witness	,,	138
See *Judgments*.		
on petition against assessment	VIII	31
in case of default to pay income-tax	,,	36
to have force of decree	,,	36
enforcement of, ...	,,	36
of performing reciprocal promises	IX	52
to warehouseman to transfer goods to purchaser ...	,,	90, ill. (*e*)
for delivery	,,	108, expl. 1
for delivery, pledge by possessor of, ...	,,	178
passed under repealed Acts or sections to be considered to have been passed under corresponding section of this Act	X	2
of transfer or reference of case to subordinate magistrate how to be recorded	,,	44
to produce person of European British subject ...	,,	81
in writing to arrest, effect of, ...	,,	102
to investigate non-cognizable case, effect of, ...	,,	110
to person acquainted with facts of cognizable offence ...	,,	118
sanctioning detention in police custody, if passed by magistrate not in charge of division of district, to whom to be reported	,,	124
to persons to sit on inquest, or to attend and give information	,,	134
copy of, to accompany appeal	,,	275
to be furnished to party affected	,,	276

	Act.	Sec.
ORDER (*concluded*)		
to search	X	379
other than final may be recalled	"	464
to furnish security, see *Security to keep the peace.*		
for security to be of good behaviour what to contain ...	"	509
written, to prevent obstructions, &c.	"	518
to be in alternative	"	521
maintaining possession	"	530
See *Judgment, order and sentence.*		
for issue of certificate, petition for, ...	XV	43
on petition	"	43, cl. 2
or decree' inserted in Evidence Act	XVIII	3
for reception of lunatic in asylum	XXI	4
ORDERS of government, &c., how proved	I	78
of certain deputy collectors legalized	XXII	2
saving of certain, ...	"	2, par. 2
ORDINARY CUSTOM OF TRADE	IX	190
ORDINARY DILIGENCE	IX	19, excep.
ORDINARY PRUDENCE	IX	151, 189, 195
ORDINATION, see *Episcopal.*		
ORIGINAL criminal jurisdiction of court of session	X	231
jurisdiction of courts of session	"	472
of certificate required for re-importation	XXIII	2, par. 2
OSTENSIBLE means of subsistence, arrest of person having no, ...	X	94
person having no, may be bound to be of good behaviour ...	"	504
OUDH, chief executive district officers in, may be invested with certain powers	X	36
appeals against convictions of,	"	270
OWNER of land, duty of, as regards report of certain matters ...	X	90
of goods, original of certificate to be given to, ...	XXIII	2, par. 2
surplus proceeds of sale to be held at credit of, ...	"	4, par. 2
OWNERS of lands and houses occupying them how chargeable ...	VIII	21
OWNERSHIP, burden of proof as to, ...	I	110
of thing sold, transfer of, involved by sale ...	IX	77
of thing yet to be ascertained, &c., when transferred	"	79
of non-existent goods, transfer of, ...	"	87
See *Acknowledgment.*		
PACKAGES, marks, numbers, description and contents of, ...	XXIII	sch.
'PANJÁB' substituted for 'North-Western Provinces' ...	IV	sch. I, col. 3
chief executive district officers in, may be invested with certain powers ...	X	36
appeals against convictions of,... ...	"	270
amendment of law relating to opium in, ...	XXVI	1
Act extends only to, ...	"	1
effect of certain sections of Excise Act, 1871, in, ...	"	3
See *Board of administration, Doáb, Kálábágh, Lieutenant-Governor, Municipal committees, Penal code, Repeal, Revenue, Ságar, Sindh.*		
PANJÁB LAWS ACT, 1872	IV	
repeal of rules by, ...	XXV	pream.
interpretation of "Opium" in, ...	XXVI	2
confiscation in case of breach of rule as to opium made under, ...	"	5
See *Chief court, Enactments, Regulations, Rules.*		
PANJÁB SALT ACT, 1872	XXV	
PAPERS, agent's lien on, ...	IX	221
See *Property.*		

	Act.	Sec.
PARDON, power to, ...	X	322
to Queen's evidence when and by whom grantable ...	,,	347, 348
withdrawal of, ...	,,	349
PARDONS granted, saving of, ...	IV	39
PARENTS, breach as to consent of, ...	XV	70
PARLIAMENT, course of proceeding of, judicially noticed ...	I	57
PAROL, see *Oral evidence.*		
PÁRSÍ, see *Marriage.*		
PART I—Preliminary, repeal, local extent and definitions ...	X	1—4
II—Constitution and powers of the criminal courts ...	,,	5—88
III—Of the police	,,	89—138
IV—Of proceedings to compel appearance	,,	139—185
V—Of inquiries and trials	,,	186—265
VI—Appeal, reference and revision	,,	266—300
VII—Execution	,,	301—322
VIII—Evidence	,,	323—387
IX—Procedure incidental to inquiry and trial ...	,,	388—438
X—Charge, judgment and sentence	,,	439—479
XI—Preventive jurisdiction of magistrates ...	,,	480—538
XII—Miscellaneous provisions	,,	539—541
PART-DELIVERY	IX	78
effect of, ...	,,	92
PARTIAL EXERCISE of agent's authority	IX	204
PARTICULAR purpose, absence of implied warranty of fitness for, ...	IX	115
lien of bailee	,,	170
PARTICULARS as to time, place, and person injured to be mentioned in charge	X	440
of manner in which offence was committed when necessary to be stated in charge	,,	441
to be stated in notice of marriage	XV	38, cl. 3
to be subscribed by person entering protest ...	,,	44, cl. 2
to be registered, registrar may ask for, ...	,,	53
PARTIES, power of judge to examine, ...	I	165
to civil suit competent witnesses	,,	120
and witnesses to sign marriage-certificate	III	13
consent of, to trial of certain suits	VII	21
application of, to presiding officer to proceed himself ...	,,	21, cl. 2
to judicial commissioner to proceed himself	,,	21, cl. 4
need not be present at trial of case referred ...	,,	36
to cases referred may, but are not bound to, appear ...	,,	50
application of, to recorder to proceed himself ...	,,	52
to cases referred need not appear	,,	77
declaration to be made to each other by, ...	XV	51, cl. 5
married to sign entries of marriages	,,	54, cl. 2
grant of certificate on application of, ...	,,	61
non-validation of marriages forbidden by personal law of, ...	,,	88
to be married, district to be stated when they dwell in different districts	,,	schs. I & II
married, signatures of, ...	,,	sch. III
names of, ...	,,	schs. I to IV
See *Oaths.*		
intending marriage, see *Declaration, Fine.*		
to give notice to marriage registrar	,,	38
issue of certificate on oath being made by one of the, ...	,,	41
oath to be made by one of the, ...	,,	42
petition by, to high court ...	,,	43

	Act.	Sec.
PARTIES (*concluded*)		
intending marriage, petition by, in case of insanity or unjust refusal of person authorized to consent	XV	45
in case of refusal of certificate ...	"	46, 47
PARTITION, rule of decision in questions as to, ...	IV	5
PARTNER, responsibility of person leading another to suppose him a,	IX	245
liability of person permitting himself to be represented as, ...	"	246
liable for partnership-debts	"	249
liable for neglect or fraud of co-partner	"	250
his power to bind co-partners	"	251
PARTNERS, burden of proof as to relationship in case of,	I	109
may agree not to carry on business after dissolution ...	IX	27, excep. 2
may agree not to carry on non-partnership business during partnership	"	27, excep. 3
are joint owners of partnership property	"	253, cl. (1)
to share equally in the profits	"	253, cl. (2)
to contribute equally towards the losses	"	253, cl. (2)
their consent to change nature of business ...	"	253, cl. (5)
their consent to introduction of a new partner ...	"	253, cl. (6)
their consent to the retirement of a partner ...	"	253, cl. (9)
their mutual duties	"	257
non-liability for subsequent obligation of estate of deceased	"	261
'PARTNERSHIP' defined	IX	239
PARTNERSHIP CONTRACT, annulment or alteration of, ...	IX	252
'PARTNERSHIP PROPERTY' defined	IX	253, cl. (1)
PART-PAYMENT	IX	78
PARTY intending marriage, see *Conditions, District, Notice.*		
to sale by joint owners cannot withdraw his share and claim pre-emption as to rest	IV	19
aggrieved by certain decision may apply for reference to judicial commissioner	VII	35
to suit, remuneration of assessor appointed by desire of, ...	"	43, cl. 2
giving notice of marriage, issue of certificate at request of, ...	XV	41
PASSAGE from Rangoon to king of Ava's territory, saving of goods on vessel during, ...	XXIII	6, par. 2
PASSENGERS, exemption from Act of steamers carrying not more than sixty, ...	XII	1
what persons not to be deemed, ...	"	2
power to reduce, in case of steam-ships, space to be provided for, ...	"	3
power to reduce, in case of steam-ships, amount of water to be provided for, ...	"	4
PASTURAGE, see *Government land.*		
PATTERNS AND DESIGNS PROTECTION ACT, 1872	XIII	
See *Exclusive right, Infringement, Inventor, New manufacture, Privilege, Remedies.*		
PÁTTÍ, claim to pre-emption of landowners of, ...	IV	14, second
'PAWNEE' defined	IX	172
his right of retainer	"	173, 174
his right as to extraordinary expenses	"	175
his right where pawnor makes default	"	176
'PAWNOR' defined	IX	172
making default	"	176

	Act.	Sec.
'Pawnor' (*concluded*)		
his right to redeem	IX	177
pledging goods in which he has alienated interest ...	,,	179
Paymaster of military circle to pay expenses of lunatic ...	XXI	5
Payment, oral evidence of, ...	I	91, cl. (*e*)
when assessment confirmed or enhanced	VIII	31, 32
and recovery of duties	,,	35, 37
penalty for failure to make, ...	,,	38
See *Instalments.*		
in case of sale	IX	78
by transfer from one account to another	,,	50, ill. (*a*)
by set-off	,,	50, ill. (*b*)
by delivery of goods	,,	50, ill. (*c*)
by posting letter containing note	,,	50, ill. (*d*)
appropriation of, ...	,,	59, 60, 61
by mistake or undue coercion	,,	72
to agent when due	,,	219
See *Appropriation.*		
of subsistence-allowance to witnesses	XXIV	pream.
Peace, dispute likely to occasion breach of the,—powers of magistrates in cases of disputed possession	X	530, 531
security to keep the, may be demanded by magistrate of first class and magistrate of division of district ...	,,	26, 28
security for keeping the, ...	,,	489—503
See *Security to keep the peace.*		
Pedigree, statement in family, ...	I	32, para. (6)
Penal code (except chapter VI) to apply to all offences committed before 1st January 1862 in Panjáb ...	IV	39
judicial proceeding within meaning of, ...	VIII	41
act forbidden by, ...	IX	15
section 294 saved	,,	30
arrest and removal for act done in native state, which would, in British India, be an offence under certain sections of, ...	XI	11 & sch. II
sections of, for offences against which extradition may be required	,,	11 & sch. II
acts to be deemed offences under sections 193, 205 and 166 of, ...	XV	66, 67
Act to amend definition of 'Coin' contained in section 230 of, ...	XIX	
Penal servitude, commutation of, ...	X	322
in case of European or American offender ...	XV	68, cl. 2
Penalties for bigamy under Act	III	16
incurred under repealed Act, proviso as to, ...	VIII	2
under Income Tax Act	,,	38
for offences under Act	XV	66—76
Penalty, witness not excused from answering on ground of exposure to, ...	I	132, 146, 147
for married person marrying again	III	15
for false statement in certificate or declaration ...	,,	21
for breach of rules made under Act	IV	50
under Act, remission of, ...	VIII	38
of bail-bond, enforcement of payment of, against accused	X	396
against sureties	,,	397
of bond to keep the peace, recovery of, from principal...	,,	502
from sureties ...	,,	503
of bond to be of good behaviour, recovery of, from sureties	,,	514
remission of part of, named in recognizance or bail-bond	,,	398
for not delivering goods re-imported	XXIII	5

	Act.	Sec.
PENDING APPEALS, applications, proceedings and suits, disposal of,	VII	2
transfer of,	,,	4
PENDING CASES to be decided under Act	X	3
PENSION, duty leviable on, ...	VIII	5
deduction of duty from, ...	,,	7, 8
PENSIONER of company, &c., deduction of tax from, ...	VIII	8
PERFORMANCE of conditions of proposal	IX	8
of voidable contract	,,	19
of contracts	,,	40—50
when promisor must himself perform ...	,,	40
when promisor or his representatives may employ another to perform	,,	40
effect of accepting, from third person ...	,,	41
by joint promisors	,,	42
by one of several joint promisors	,,	43
of promise	,,	46—50
of reciprocal promises	,,	51—55
dispensing with or remitting,	,,	63
not of contract rescinded or altered or for which another has been substituted	,,	62
See *Acceptance, Application.*		
PERISHABLE GOODS	IX	169
PERISHABLE PROPERTY, sale of certain, ...	X	415
'PERSON' defined	VIII	2
meaning of 'Collector' in case of, ...	,,	2
See *Firm, Hindú undivided family.*		
accused of non-cognizable offence refusing to give name and residence how to be dealt with ...	X	93
injured to be named in charge	,,	440
solemnizing marriage to register in duplicate ...	XV	32
to sign entries of marriages ...	,,	33, 54, cl. 2
to send certificates to registrar ...	,,	34
to register marriages of native christians	,,	37
to keep register until filled or transfer it to successor ...	,,	137
to send register when filled to registrar	,,	37, cl. 2
authorized to forbid issue of certificates	,,	17, prov. (3), 41, prov. (2), 71 (4), 73, cl. 7
authorized to consent to marriage	,,	18 (*b*), 19, 42 (*c*), 60
whose consent to marriage is required may enter protest against issue of certificate	,,	44, cl. 2
whose consent to marriage is required, petition in case of insanity or unjust refusal of, ...	,,	45
forbidding certificate, procedure in case of doubt as to authority of, ...	,,	48
solemnizing marriage, procedure of, in case of native christian who does not understand English ...	,,	58
licensed to grant certificates of marriage between native christians—		
declaration in presence of, ...	,,	60 (3)
when to grant certificate	,,	61
to sign certificate	,,	61, cl. 2
to keep register of marriages ...	,,	62
to allow search of registers and give copies of entries	,,	63

	Act.	Sec.
'Person' (*concluded*)		
licensed to grant certificates of marriage between native christians—		
penalty on person granting certificate pretending to be, ...	XV	74
authorized to consent to marriage, penalty for personating, ...	"	67
unauthorizedly solemnizing marriage in absence of marriage registrar, penalty on, ...	"	68
(other than clergyman) authorized to solemnize marriage, penalty for offences by, ...	"	73
solemnizing marriage and required to register same to allow searches and give copies	"	79
solemnizing marriage, signature of, ...	"	sch. III
in chief revenue charge of district included in 'Collector'	XXII	4
in charge of native boat included in 'Master' ...	XXIII	1
Personal appearance of accused may be dispensed with, see *Agent*.		
Personal law of parties married, non-validation of marriages forbidden by, ...	XV	88
Personal recognizance, procedure to recover penalty for breach of, ...	X	398
Personation, penalty for forbidding certificate by false, ...	XV	67
Persons who may be married under Act	III	2
subject to court of wards	IV	35—38
injured by offence, award of fine to, as compensation ...	"	42, par. 3
liable to be sworn may, if they object to oath, make simple affirmation	VI	3
may be summoned to give evidence and required to produce accounts	VIII	33
by whom marriages may be solemnized	XV	4—9
licensed to grant certificates of marriage between native christians may solemnize marriages	"	5 (5)
intending marriage, see *Certificate, Consent, Minor, Notice, Parties, Party*.		
episcopally ordained may solemnize marriages ...	"	5 (1)
registration of marriages solemnized by, ...	"	32
married to sign entries of marriages	"	33, 54, cl. 2
intending marriage, age of, ...	"	60 (1)
not to have wife or husband living...	"	60 (2)
declaration to each other by,	"	60 (3)
consent required when either of, is under 18	"	60 prov.
married, correction of errors in presence of, ...	"	78
invested with powers to be deemed deputy collectors within meaning of Acts X of 1859 and XIV of 1863	XXII	1
exercising powers of deputy collectors, defining area of jurisdiction of, ...	"	3
Petition for adjudication of insolvency...	IV	23
against assessment to income-tax	VIII	30
when to be presented	"	30
when time for presentation of, may be enlarged ...	"	30
when barred	"	30
form and verification of, ...	"	30 & sch.
hearing of, and order on, ...	"	31
refund of fee on, ...	"	31, 32
copy of, exempt from fee	"	32

	Act.	Sec.
PETITION, (*concluded*)		
payment of tax by person who has presented, ...	VIII	31, 32, 36
penalty for false statement in, ...	,,	39
See *Collector, Order.*		
for order to issue certificate as to marriage... ...	XV	43
in case of insanity or unjust refusal of person authorized to consent to marriage	,,	45
procedure on, ...	,,	45
against refusal of certificate	,,	46, 47
procedure on, ...	,,	46
decision on, ...	,,	47
by registrar doubting authority to forbid certificate ...	,,	48
contents of, and procedure on, ...	,,	48
PETITIONER under section 30, time for recovery of amount adjudged to be due by, ...	VIII	36
PETITIONS of appeal, time for presenting and fee prescribed for,		
to apply to certain applications	VII	35, cl. 2
under Indian Christian Marriage Act, 1872, sections 45 and 48	XV	2
PETTY CASES, when no appeal in, ...	X	273
PHOTOGRAPHED words are 'a document'	I	3
document, how far primary evidence ...	,,	62
secondary evidence of original, ...	,,	63, ill. (*a*)
expressed by 'Written'	X	4
PHYSIC, practitioners of, exempted from service as jurors or assessors	X	406
PLACE at which any fact in issue or relevant fact happened, facts fixing, ...	I	9
where marriage may be solemnized	III	12
for holding courts	VII	13 (2); 39, 3
for performance of promise	IX	47
where no place fixed for performance	,,	49
of delivery of goods sold	,,	94
of delivery of goods contracted to be sold	,,	94
where maintenance-order may be enforced	X	538
where offences shall be investigated to follow chapter vi ...	,,	114
where offence was committed to be stated in charge ...	,,	440
where proceedings may be taken in cases where security is required to keep the peace	,,	502
where proceedings may be taken against persons it is desired to bind to be of good behaviour	,,	515
of transportation not to be specified in sentence ...	,,	319
for solemnizing marriages	XV	sch. II
of abode of parties intending marriage	,,	42 (*b*)
of person forbidding certificate	,,	44, cl. 2
and time of solemnization, marriage not void for irregularity as to, ...	,,	77 (4)
See *Principal officer.*		
of worship to be stated	,,	schs. I & II
PLACE OF INQUIRY AND TRIAL	X	63—70
ordinarily where offence was committed	,,	63
in offences under local or special laws to follow those laws or this code...	,,	63
where act done or omitted to be done, or where consequence ensues ...	,,	65
where act is an offence by reason of its relation to another offence ...	,,	66

	Act.	Sec.
PLACE OF INQUIRY AND TRIAL (*concluded.*)		
where it is uncertain where offence was committed; or where offence is committed partly in one district and partly in another; or is continuing; or consists of several acts done in different districts ...	X	67
of offences of murder as a thug, dacoity, or dacoity with murder ...	"	68
when doubtful, may be decided by high court	"	69
no ground for setting aside proceedings, that investigation, inquiry or trial was held in wrong place unless prisoner or prosecutor was prejudiced	"	70
PLAINTIFF in civil suit against injured person, &c., objectionable juror	X	244
PLANS are 'documents'	I	3
relevancy of statements in, ...	"	36
presumption as to, ...	"	83
PLEA in trial of warrant case	X	217
to be taken in sessions trial	"	237
of guilty in sessions trial, conviction upon, ...	"	237
conviction on,—extent of appeal	"	273
of guilty, conviction may be had on, ...	"	324
PLEAD, procedure of court of session in case of refusal or neglect to,	X	238
PLEADER, certain questions asked by, without reasonable grounds, may be reported to high court	I	150
communication made to, by or for client, when disclosable	"	126
when not disclosable ...	"	126
waiver of privilege ...	"	128
in cases referred to high court, parties may appear by,	VII	50
right of, to appear for defence	X	186
attorney or', inserted in Evidence Act	XVIII	6
inserted in Evidence Act	"	10
'PLEDGE' defined	IX	172
of bill-of-lading to secure specific advance	"	103
PLEDGEE, production of document by, ...	I	130
POLICE, of the, ...	X	89—138
in presidency towns, jurisdiction of, saved	"	540
POLICE ACTS, certain offences under conservancy clauses of, triable summarily	X	225
POLICE GAZETTE or notification, arrest of person proclaimed in,	X	92
POLICE INVESTIGATION, power of magistrate of second class to order, in case in which he has jurisdiction	X	24, 110
See *Investigation by police.*		
POLICE MAGISTRATES, see *Magistrates of police.*		
procedure of, in presidency towns not affected by Act, except where specially stated	X	1
POLICE OFFICER, confession to, not provable against accused ...	I	25
confession while in custody of, when provable against accused	"	26
how much provable against accused ...	"	27

	Act.	Sec.
POLICE OFFICER (*continued*)		
not compellable to disclose whence information obtained	I	125
power to invest persons with powers of, ...	IV	41
public to report certain offences to, ...	X	89
may call on persons to assist him in certain cases	,,	91
offences for which police may arrest without warrant	,,	92
arrest of offender for obstruction of, ...	,,	92
how to act in case of non-cognizable offence ...	,,	93
duty of, to prevent commission of cognizable offences	,,	95
duty of, to report information of design to commit cognizable offences	,,	96
when may arrest person designing commission of cognizable offence	,,	97
duty of, to prevent injury to public property ...	,,	98
search in house by, for person liable to arrest without warrant	,,	99
procedure of, where ingress to house (in which cognizable offender is) is refused ...	,,	100
to take arrested person before magistrate or officer in charge of police-station ...	,,	101
may pursue person liable to arrest without warrant beyond local jurisdiction	,,	103
duty of, to assist in arrest of deserters from British merchant ships	,,	106
how to deal with persons arrested by private persons	,,	107
may not investigate non-cognizable offence without order of competent magistrate ...	,,	110
powers of, under local and special laws saved ...	,,	111
not to induce accused to confess or warn him not to confess	,,	120
not to record confession except for his own use; may give evidence of dying declaration ...	,,	121
not to accompany complainants and witnesses on their way to magistrate having jurisdiction ...	,,	130
not to restrain complainants or witnesses unless they refuse to enter into recognizances ...	,,	131
may not discharge person apprehended by him except on bail or recognizance, &c. ...	,,	132
may be ordered to investigate truth of complaint	,,	146
ordinarily to serve summons	,,	153
ordinarily to serve warrant of arrest ...	,,	161
duty of, with regard to persons arrested under warrant addressed to landholder ...	,,	162
may endorse warrant	,,	165
procedure of, in case of warrant of arrest to be executed beyond local jurisdiction ...	,,	168
to whom warrant is directed, duty of, ...	,,	170
to notify substance of warrant; may show warrant	,,	176
how to execute warrant	,,	177
how to act when person resists endeavour to arrest	,,	178
may search house entered by person against whom warrant of arrest has issued ...	,,	179
may break door or window in executing warrant of arrest	,,	180
how to break into zanána	,,	181

	Act.	Sec.
POLICE OFFICER (*concluded*)		
not to restrain arrested person unnecessarily ...	X	182
executing warrant to bring arrested person before magistrate	,,	183
not to induce person arrested under warrant to confess	,,	184
search-warrant to be ordinarily directed to, ...	,,	370
may endorse search-warrant	,,	371
how to execute search-warrant out of jurisdiction with endorsement	,,	372
how to execute search-warrant out of jurisdiction without endorsement...	,,	373
to report unsuccessful search to local magistrate	,,	373
warrant may order search after or without endorsement	,,	375
executing search-warrant may break into house	,,	383
how to search zanána	,,	384
how to search woman	,,	386
to search arrested persons who are not bailed; report to be made	,,	387
may take money or government promissory notes in lieu of bail	,,	399
disqualified from serving as juror or assessor ...	,,	405
to report seizure of stolen property to magistrate	,,	415
report of, or credible information	,,	494
POLICE OFFICER IN CHARGE OF POLICE STATION, see *Officer in charge of police station.*		
POLICE OFFICER MAKING INVESTIGATION, power of, to summon and interrogate witnesses...	X	118
power of, to examine orally	,,	119
when to report to officer in charge of police-station ...	,,	123
to prepare daily diary...	,,	126
to submit final report ...	,,	127
to bind complainants and witnesses to appear ...	,,	130
power of, to search or order search ...	,,	379
POLICE OFFICERS, VILLAGE, jurisdiction and procedure of, in Bombay, saved	X	541
POLICY, see *Public policy.*		
POLICY BROKERS, their liens	IX	171
'POLITICAL AGENT' defined	XI	3
what included in, ...	,,	3
to certify fitness of inquiry into charge ...	,,	9
power to direct the receiving, as evidence, of copies of depositions made before, ...	,,	10
may issue warrant for arrest and removal of offenders in native state escaping into British India	,,	11
may himself dispose of case, or transfer it to ordinary court	,,	13
power to make rules as to confinement, &c., of persons imprisoned by, ...	,,	15 (1)
defined	XXIII	1
certificate to be obtained from, before re-importation	,,	2

	Act.	Sec.
'Political agent' (*concluded*)		
penalty for non-delivery of goods protected by certificate of, ...	XXIII	5
Political agents, delegation to, of certain powers	XI	pream.
confirmation of existing, ...	"	7
Polygamy	IX	56, ill. (*c*)
Poppy cultivation, effect of certain sections of Excise Act, 1871, where acreage duty leviable on, ...	XXVI	3
Poppy heads, included in 'Opium'	XXVI	2
Port, see *Indian port, Turkish port.*		
Portrait, statement made on family, ...	I	32, para. (6)
Position in life of witness, questions in cross-examination to discover, ...	I	146—150
not to be asked without reasonable grounds	"	149
when court may report asking of question to high court ...	"	150
of person forbidding certificate	XV	44, cl. 2
Possession, contract to sell and deliver at future day goods not in seller's, ...	IX	88
See *Trade.*		
provisions relating to, ...	X	530—35
of counterfeit coin, charges of, ...	"	443, ill. (*a*)
procedure where dispute likely to lead to breach of the peace exists, regarding land or water, &c. ...	"	530
person in, to be maintained	"	530
if it cannot be ascertained, magistrate may attach subject of dispute	"	531
disputes concerning right of use of land or water, or right of way; procedure; limitation	"	532
local inquiry to determine boundary dispute ...	"	533
of immoveable property in certain cases, power of criminal court to restore, ...	"	534
saving of powers of collectors and revenue courts ...	"	535
of salt prohibited	XXV	1 (*h*), (*i*)
of opium in the Panjáb	XXVI	3, 5
Possession cases, orders in, may be made by magistrates of first class and of divisions of districts ...	X	26, 28
Post, communication of proposal by, ...	IX	4, ill. (*a*)
communication of acceptance by, ...	"	4, ill. (*b*); 5, ill.
arrest-warrant may be sent by, ...	X	168
search-warrant may be sent by, ...	"	5, 6
sending by, of copy of notice of intended marriage ...	XV	15, 39, 71 (3), 73, cl. 6
Postal department, search-warrant for letter in custody of, ...	X	369
Post office, persons in, exempted from serving as jurors or assessors	X	406
Postponement of payment	IX	78
of delivery	"	78
of payment and delivery	"	78
of effect of recognizance to keep the peace, or imprisonment in default thereof, in certain cases	X	489
of execution of pregnant woman	"	306
of issue of process	"	146
of sentence; on conviction for more than one offence, penalties to commence one after the other	"	314
of sentence in case of escaped convict ...	"	316
of person already sentenced ...	"	317
of sessions trial		264

	Act.	Sec.
POSTPONEMENT (*concluded*)		
of trial on account of lunacy of accused ...	X	423, 425, 428
of commencement of criminal procedure code ...	{ XVII, XXVII	
POWER of judge, see *Judge*.		
POWERS, see *Administrator, Constitution, Executor*.		
exerciseable by recorder	VII	53-55
of collector and commissioner, exercise of, by others ...	VIII	43
delegation of, ...	"	45, 46 (*c*)
of additional or joint sessions judges	X	17
appeals from convictions of chief executive district officers in certain provinces and districts	"	270
of assistant sessions judges	"	18
of competent magistrate to punish European British subject	"	74
conferred by other laws, saved	"	31
conferred on police by local and special laws, saved ...	"	111
continuance of, on transfer	"	56
of court of session	"	15
of court of session to try European British subjects, to sentence such persons or transfer commitment ...	"	76
of courts trying persons for more than one offence at one trial	"	314
may be conferred specially or generally	"	43
may be varied or cancelled	"	54
of magistrate to punish for contempt against his own court	"	436
of magistrates' bench	"	51
of officer temporarily succeeding to office of magistrate of district	"	55
of police to investigate	"	109—38
of police officer to arrest under order in writing ...	"	102
to remit punishment	"	322
of sessions judge	"	16
of superior officers of police	"	137
which may be conferred on chief executive district officers in certain provinces and districts	"	36
of governor general, out of British India, derived by treaty, &c.	XI	pream.
of governor general, out of British India, exercise and delegation of, ...	"	4
effect of notification of exercise and delegation of, ...	"	5
of local government as to fees, registers and returns of marriages, exercise of, as regards native states ...	XV	84
of governor general, delegation of, ...	"	86
exercise of, in regard to native states in Bombay and Madras ...	"	86, cl. 2
POWERS-OF-ATTORNEY, presumption as to, ...	I	85
PRACTICE, mode of using police-case-diaries	X	126
and proceedings of high courts not established by royal charter, rules to regulate, to be sanctioned by government	"	292
of subordinate courts, rules to regulate, require sanction of government	"	292
as to subsistence-allowance to witnesses	XXIV	pream.
PRECEDENCE in special court	VII	67
PRECEPT to summon jurors or assessors	X	407
'PRE-EMPTION' defined	IV	9
See *Co-sharers, Decree, Gift, Houses, Immoveable property, Joint-owners, Landlords, Lands, Member, Merits, Mortgage, Mortgages,*		

	Act.	Sec.
Mortgagor, Notice, Occupancy, Offer to sell, Property, Purchaser, Questions, Relation, Relationship, Right, Sales, Shares, Suit, Tenants, Transactions, Vendor, Vicinity, Village communities, Village site, Villages, Well.		
PREFERENCE, see *Fraudulent.*		
PREGNANT WOMAN, execution of, to be postponed	X	306
PREJUDICE a ground of objection against juror	X	244
PRELIMINARY, repeal, local extent and definitions	X	1—4
short title, local extent, commencement ...	,,	1
repeal of enactments; saving of special procedure; references to code of criminal procedure; references in former Acts; certain specified references	,,	2
pending cases	,,	3
definitions	,,	4
to inquiries and trials	,,	186—88
PREPARATION for fact in issue or relevant fact	I	8
PRESIDENCIES of Bombay and Madras, exercise of powers of governor general in regard to native states in, ...	XV	86, cl. 2
'PRESIDENCY TOWN' defined	X	4
petition to high court by parties intending marriage and resident in, ...	XV	43
petition where person authorized to consent to marriage is resident in, ...	,,	45
petition where district of registrar refusing certificate is in, ...	,,	46
petition where district of registrar doubting authority to forbid certificate is in, ...	,,	48
PRESIDENCY TOWNS, saving of admissions to benefit of insolvency law in, ...	IV	30
certain writs not to run beyond, ...	X	82
search in,—procedure	,,	374, 376
saving of jurisdiction of commissioners of police in, ...	,,	540
PRESIDING OFFICERS of courts, confirmation of existing, ...	VII	12
when to fix place of holding court ...	,,	13 (2)
of certain courts may be invested with small cause court powers	,,	17
may be invested with certain special jurisdiction	,,	19
procedure of, in respect of suits and appeals in which they are interested	,,	21
of certain courts, appointment of, ...	,,	22
suspension and removal of, ...	,,	23
of certain courts to appoint ministerial officers ...	,,	24, cl. 2
power of, to fine, suspend or remove ministerial officers ...	,,	25, cl. 3
PRESUMPTION, see *Death.*		
as to document produced as record of evidence ...	I	80
certified copies of foreign judicial records ...	,,	86
books, maps, and charts ...	,,	87
execution, &c., of document not produced after notice	,,	89
documents thirty years old ...	,,	90
existence of probable facts ...	,,	114

	Act.	Sec.
PRESUMPTION (*concluded*)		
as to genuineness of book of laws and reports of decisions ...	I	84
certified copies, &c. ...	,,	79
document admissible in England or Ireland without proof of seal or signature	,,	82
gazettes, newspapers, copies of private Acts of Parliament and other documents ...	,,	81
maps and plans	,,	83
powers-of-attorney	,,	85
telegraph messages	,,	88
that person in possession had no right to sell goods	IX	108
in case of advances by pawnee	,,	174
in case of pledge by possessor of goods ...	,,	178
of existence of contract enabling agent to personally enforce contracts	,,	230
as to signature of chemical examiner	X	325
of guilt weakened; bail	,,	389
PRESUMPTIONS as to documents	I	79—90
PRETENDED biddings	IX	123
agent, liability of, ...	,,	235
not entitled to performance of contract ...	,,	236
PREVENTION of cognizable offences; duty of police	X	95
of injury to public property	,,	98
PREVENTIVE jurisdiction of magistrates...	X	480—538
service, persons in the, exempted from serving as jurors or assessors	,,	406
line, charge of,...	XXV	1 (*h*)
PREVIOUS CONVICTION, see *Conviction*.		
or acquittal how proved	X	326
may be proved in bad livelihood cases ...	,,	515
PRICE, ascertainment of, ...	IX	81
not fixed by contract, determination of, ...	,,	89
lien for, ...	,,	95, 96, 97, 98
PRIESTS exempted from serving as jurors or assessors ...	X	406
PRIMARY EVIDENCE, how far counterpart is, ...	I	62
printed document, &c., is, ...	,,	62
meaning of, ...	,,	62
proof of document by, ...	,,	64
PRINCES, see *Dominions, Native princes, Native states.*		
PRINCIPAL and agent, burden of proof as to relationship in case of,	I	109
defined	IX	182
who may be, ...	,,	183
notice to, of right to stop	,,	105
when he may revoke agent's authority	,,	202, 203
how far he may revoke authority partly exercised ...	,,	204
how far bound when agent exceeds authority ...	,,	227
not bound when excess of agent's authority is not separable	,,	228
inducing belief that agent's unauthorized acts were authorized	,,	237
surety may recover payments on behalf of, ...	,,	43, exp.
PRINCIPAL AGENT of firm or company having several places of business	VIII	45
See *Treasurer*.		
PRINCIPAL DEBTOR defined	IX	126

	Act.	Sec.
PRINCIPAL MANAGER of firm or company having several places of business	VIII	45
See *Treasurer.*		
PRINCIPAL OFFICER representing government in place beyond British India included in 'political agent'...	XI	3
PRINCIPAL PLACE of business of firm or company	VIII	28, 45
See *'Collector' defined, 'Company' defined* ...	,,	2
PRINTED document, how far primary evidence	I	62
words are a "document"	,,	3
included in 'Written'	X	4
PRISON DISCIPLINE, see *Confinement.*		
PRIVATE ACT, presumption as to copy of, ...	I	81
PRIVATE DOCUMENTS	I	75
PRIVATE PERSONS may arrest in certain cases	X	105
may prosecute cases with permission of court...	,,	59
when may serve search-warrant	,,	370
summons	,,	153
warrant	,,	161
PRIVATES exempted from income-tax	VIII	3
PRIVILEGE of communications during marriage	I	122
professional communications not waived by party giving evidence ...	,,	128
how far waived when attorney, &c., examined by party ...	,,	128
See *Attorney, Barrister, Marriage.*		
as to pattern or design, or application thereof, for what term grantable	XIII	3
PRIVILEGES of certain chiefs in Panjáb, saving of, ...	IV	39
PRIVY COUNCIL, proclamations, &c., of, how proved	I	78
PROBATE jurisdiction, judgment in, ...	I	41
proof of wills by, ...	,,	91
See *Admitted.*		
PROBATES granted by Bombay high court, saving of, ...	XX	1
PROCEDURE, see *Civil procedure,*		
on receipt of notice of objection to marriage ...	III	7
on petition for adjudication of insolvency ...	IV	24
of courts in British Burma...	VII	20, 21
on reference to judicial commissioner	,,	32, 36
when first decision confirmed in appeal on question of law or custom, &c.	,,	35
of judicial commissioner on reference	,,	36
of high court on reference	,,	37, cl. 2; 50, 77
See *Recorder, Rules.*		
under fresh notice	VIII	34
of Act to be followed in miscellaneous criminal cases and proceedings	X	539
incidental to inquiry and trial	,,	388—438
prescribed by laws not specially repealed, saving of, ...	,,	2
of section when to be followed, and when that in section 521 and subsequent sections ...	,,	518, exp. I
upon requisition for extradition	XI	14
on petition by parties intending marriage ...	XV	43, cl. 2, 45, 46
registrar doubting authority to forbid certificate	,,	48, cls. 2, 7
in respect of goods not cleared	XXIII	4
PROCEEDINGS before arbitrator, Act not applicable to. ...	I	1
civil, parties to suit and husband and wife competent witnesses in, ...	,,	120

	Act.	Sec.
PROCEEDINGS, (*concluded*)		
criminal, husband or wife of accused competent witness in, ...	I	120
judicial, before courts and courts-martial, Act applicable to, ...	"	1
of what facts evidence admissible in, ...	"	5
See *Criminal proceedings.*		
in exercise of insolvency jurisdiction, saving of previous, ...	IV	33
not invalidated by omission of oath	VI	5
connected with suits and appeals in which presiding officers are interested	VII	21
in which recorder is interested, disposal of, ...	"	52
under Act to be judicial proceedings	VIII	41
to compel appearance	X	139—185
appellate court may call for, ...	"	278
to be recorded by magistrate in possession-case ...	"	530
for offence committed in native state which bar further proceedings for same offence ...	XI	9
in respect of emigration to, or contracts for labour in straits settlements, bar of, ...	XIV	2
on certificate of notice of marriage when void ...	XV	26, 52
in pursuance of declaration on petition by parties intending marriage	"	45, cl. 7
in pursuance of declaration or decision on petition or reference by registrar	"	48, cls. 5, 8
liability for costs of, in case of frivolous protest ...	"	49
in respect of prior levy of duties on spirits barred	XVI	3, cl. 2
See *Forms, Recorder.*		
PROCEEDS of uncleared goods sold	XXIII	4
PROCESS, recorder's power to make and alter rules for service and execution of, ...	VII	64
rules for service and execution of, made under former Acts, to be in force till superseded..	"	65, cl. 2
against European British subject, issued by magistrate not European British subject and not magistrate of first class, before whom returnable	X	73
to compel appearance	"	139
postponement of issue of, ...	"	146
when warrant may issue in summons case	"	148
PROCLAIMED OFFENDER, arrest of, without warrant ...	X	92
warrant may be directed to landholders for arrest of, ...	"	162
PROCLAMATION for absconding witness	X	353
for accused person absconding	"	171
may be issued by any magistrate having jurisdiction in case	"	22
of order to abate local nuisance	"	522
for owner of seized suspicious or stolen property	"	416
See *Debtor.*		
PROCLAMATIONS how proved	I	78
PRODUCE of land, disputed possession of, ...	X	530, 531
PRODUCTION of document by witness	I	162
on notice, party producing entitled to have it in evidence ...	"	163
if refused, in what cases party refusing can afterwards give it in evidence	"	164

	Act.	Sec.
PRODUCTION (*concluded*)		
of document, person summoned does not become witness by, ...	I	139
power of judge to order, ...	"	165
which another person, having possession, could refuse to produce	"	131
of title-deeds of witness not a party	"	130
of writing used by witness to refresh memory, adverse party entitled to, ...	"	161
PROFESSION, agreement restraining exercise of, ...	IX	27
to be stated	XV	schs. I to IV
See *Contents, Particulars.*		
PROFESSIONAL adviser, see *Attorney, Barrister.*		
communication, when disclosable	I	126
when not disclosable ...	"	126
waiver of privilege as to, ...	"	128
duty, entry made in discharge of, ...	"	32, para. (2)
treatise, expert may refresh his memory by reference to, ...	"	159
PROFIT on resale, seller entitled to, ...	IX	107
from goods bailed	"	163
gained by agent's misconduct	"	211
PROFITS, annual return of, ...	VIII	11
of business, receipt of portion of, in consideration of sale of good-will	IX	244
made in business carried on by partner, and interfering with that of firm	"	259
PROHIBITED DEGREES, non-validation of marriages within, ...	XV	88
PROHIBITION of marriage for consanguinity or affinity, law as to, to apply to issue of marriages under Act ...	III	18
of partnership-business	IX	255
of issue of certificate of notice given and declaration made as to marriage	XV	20
inquiry on receipt of notice of, ...	"	21
withdrawal of notice of, ...	"	21, cl. 2
See *Forbidden, Forbidding.*		
penalty for issuing certificate against, ...	"	71 (4)
of possession of salt	XXV	1 (*h*), (*i*)
PROHIBITIONS of certificates, fees for entering, ...	XV	82, cl. 3
'PROMISE' defined	IX	2, cl. (*b*)
consideration for, ...	"	2, cl. (*d*)
when express	"	9
when implied	"	9
made without intention of performance	"	17, cl. (3)
to compensate for something done for promisor ...	"	25, cl. (2)
to pay debt barred by limitation	"	25
time for performing, where no time specified and no application to be made ...	"	46
where time specified but no application to be made	"	46
place for performing, ...	"	47, 49
application for performance of, ...	"	48
alternative, ...	"	58
extension of time for performing, ...	"	63
to give time to principal debtor	"	135
See *Acceptance, Disability, Implied promise, Performance, Proposal, Reciprocal promises, Satisfaction.*		
not to be made to prisoners to induce confessions ...	X	120, 184
not to be made to induce disclosures	"	344

	Act.	Sec.
'Promisee' defined	IX	2, cl. (c)
may dispense with or remit performance of promise ...	"	63
may extend time for performance of promise ...	"	63
may accept satisfaction instead of performance of promise	"	63
neglecting or refusing reasonable facilities for performance of promise	"	67
in contract of indemnity, his rights	"	125
'Promisor' defined	IX	2, cl. (c)
Proof, burden of, see *Burden of proof.*		
admission not conclusive, ...	I	31
facts not requiring, ...	"	56—58
judgments in probate, &c., jurisdiction, of what conclusive, ...	"	41
of admission against person making it and by or on his behalf	"	21
of admitted fact, not necessary	"	58
of attested document not required by law to be attested ...	"	72
of certain public and official documents	"	78
of cession of British territory	"	113
of contents of documents	"	61
of documents by primary evidence	"	64
of execution of document required by law to be attested ...	"	68
to be attested, when attesting witness cannot be found, or execution in the United Kingdom ...	"	69
to be attested, when attesting witness denies execution ...	"	71
of facts by oral evidence	"	59
of handwriting and signature when necessary ...	"	67
of public document by production of certified copy ...	"	77
of wills under Indian Succession Act	"	91
of legitimacy, in what cases birth during valid marriage conclusive, ...	"	112
of fact, no particular number of witnesses necessary ...	"	134
of previous conviction or acquittal	X	326
of registers, certificates, &c., not required	XV	80
Proper accounts	IX	213
'Proper custody' defined	I	90
Proper place for making offer of performance	IX	38
for applying for performance	"	48
Proper time for making offer of performance	IX	38
for applying for performance	"	48
Property, pre-emption extends to all permanent dispositions of,...	IV	10
does not affect temporary dispositions of,..	"	10
subject to right of pre-emption, notice to persons concerned by vendor or mortgagee of, ...	"	13
subsequently acquired, see *Agreement.*		
proviso as to, ...	"	29
See *Debtor, Immoveable property, Management, Remedy, Share.*		
in goods sold, when it passes	IX	78
of principal, agent's lien on, ...	"	211

	Act.	Sec.
PROPERTY (*concluded*)		
of proclaimed person, power to attach and sell, ...	X	22
of perishable nature and of suspicious character, power to sell, ...	,,	22
suspicious or stolen, power to sell, conferable on magistrates, first class	,,	27
inherent in magistrate of division of district ...	,,	28
arrest of person found in possession of stolen, ...	,,	92
prevention of injury to public, ...	,,	98
of person absconding, attachment of, ...	,,	172
of complainant, distress and sale of moveable, ...	,,	209
distress and sale of moveable, on non-payment of fine	,,	307
procedure in case of habitual offender for offences against, ...	,,	315
moveable, of absconding witness, attachment of, ...	,,	353
release or sale of, ...	,,	354
found on search ; procedure	,,	373, 374, 376
attachment and sale of, belonging to person not appearing to his bail		396
sureties ...	,,	397
of juror or assessor, attachment and sale of, ...	,,	414
stolen, police to report seizure to magistrate ; any magistrate may sell perishable, ...	,,	415
procedure when owner of, unknown	,,	416
who may sell, if not perishable	,,	417
connected with offence, power of criminal court to make order regarding, ...	,,	418
attachment and sale of moveable, of person bound to keep the peace ...	,,	502
surety ...	,,	503
surety to bond to be of good behaviour	,,	514
when person may be directed to take order with, ...	,,	518
sale of moveable, to defray expense of abating local nuisance	,,	525
when restoration of possession of immoveable, may be ordered	,,	534
PROPOSAL accepted by performing conditions or receiving consideration	IX	8
when made	,,	2, cl. (*a*)
when accepted becomes a promise	,,	2, cl. (*b*)
when communicated	,,	3
when accepted	,,	3
when revoked	,,	3
communication of, when complete	,,	4
revocation of, ...	,,	5
how revoked	,,	6
how converted into a promise	,,	7
See *Acceptance*.		
PROSECUTION, agreement to drop, ...	IX	23, ill. (*f*)
may, with permission of court, be conducted by private persons	X	59
before court of session to be conducted by public prosecutor, &c.	,,	235
objection to juror	,,	243
prejudiced, reason for setting aside finding ...	,,	283
compensation for expenses of, ...	,,	308

	Act.	Sec.
PROSECUTION, (*concluded*)		
general, ...	X	351
witnesses for, how procured; inquiries ...	"	357
in summons cases	"	361
in warrant cases	"	362
sanction for,—after amendment of charge, when sanction is necessary, it is to be obtained, unless sanction was given to prosecution on same facts...	"	450
PROSECUTIONS under Income Tax Act	VIII	40
limitation of, ...	XV	76
in the Panjáb for offences in respect of opium ...	XXVI	4
PROSECUTIONS IN CERTAIN CASES	X	465—79
offences against the state, and offences regarding lotteries, may not be prosecuted without sanction	"	465
certain offences committed by judges and certain public servants may not be prosecuted without sanction	"	466
sanction to be given before commencement of proceedings; power of local government ...	"	466
prosecution for contempt of lawful authority of public servants requires sanction ...	"	467
sanction required to prosecution of certain offences against public justice committed in court ..	"	468
sanction required to prosecution of certain offences relating to documents given in evidence in court	"	469
nature of sanction necessary; when may be given	"	470
in cases mentioned in sections 467, 468 and 469, court may either commit the case itself or send it to magistrate	"	471
powers of court of session to take cognizance of offences committed before it ...	"	472
offences in contempt of court how to be disposed of	"	473
power of civil court to commit; magistrate bound to receive case sent to him by civil court ...	"	474
commitment by civil court; case to be brought forward by magistrate of district or magistrate of first class	"	475
courts of session and civil courts committing may bind over persons to give evidence ...	"	476
offence exclusively triable by court of session committed before magistrate not empowered to commit	"	477
sanction necessary to prosecution for adultery ...	"	478
sanction necessary to prosecution for enticing away married woman	"	479
no magistrate, officer or soldier to be prosecuted without sanction for act done in dispersion of assemblies by military force	"	488
PROSECUTOR, public, see *Public prosecutor*.		
may show that he has been prejudiced by investigation, inquiry or trial being held in wrong district	X	70
right of, to sum up his case before finding or verdict	"	251
right of reply of, ...	"	252
may appear on hearing of appeal	"	280
power of, to examine witness when commission is issued	"	330
may require question and answer to be recorded ...	"	338
to execute recognizance for attendance ...	"	360
may recall witness on amendment of charge ...	"	449

	Act.	Sec.
PROSECUTOR, (*concluded*)		
government may select, for offences by public servants	X	466
PROTECTION to magistrates in dispersing unlawful assemblies ...	X	483, 488
See also *Prosecutions in certain cases.*		
PROTEST of captain, when relevant	I	32, ill. *(h)*
against issue of certificate as to marriage	XV	44, cl. 2
effect of, ...	,,	44, cl. 3
liability for frivolous, ...	,,	49
PROTESTS against certificates, fees for entering, ...	XV	82, cl. 3
'PROVED,' when a fact is, ...	I	3
'PROVINCE' defined	X	4
PROVINCIAL EXPRESSIONS, evidence admissible to show meaning of,	I	98
PROVISIONS of certain sections applied to cases transferred to judicial commissioner	VII	52, cl. 2
warranty on sale of, ...	IX	111
PROVISOES to apply to issue of marriages under Act... ...	III	18
PUBLIC, duty of, to report commission of certain offences ...	X	89
bound to assist magistrate or police officer on certain occasions	,,	91
when orders may be directed to, generally ...	,,	518, exp. III
PUBLICATION of orders of exemption from tax and of revocations of same	VIII	4
of rules for assessment of income from land ...	,,	21
of list of jurors and assessors	X	401
of order directing certain trials to be by jury ...	,,	233
of notice of intended marriage	XV	13, 14, 16, 39
penalty for acts wrongly done without, ...	,,	71 (1); 73, cl. 5
fees for, ...	,,	82, cl. 1
PUBLIC BODY, meaning of 'Collector' in case of, ...	VIII	2
See *Company, Deduction, Indemnity.*		
PUBLIC BOOK, register or record, entry in, ...	I	35
PUBLIC DOCUMENTS	I	74
certified copies of, ...	,,	76
proof of, by production of certified copies ...	,,	77
proof of certain, ...	,,	78
PUBLIC DUTY, bond for performance of, ...	IX	74
PUBLIC FESTIVALS, &c., when court must take judicial notice of,	I	57
PUBLIC JUSTICE, sanction to prosecute certain offences against, committed before court	X	468
PUBLIC NOTICE of repudiation of partnership	IX	248
of dissolution of partnership	,,	264
PUBLIC NUISANCE, who may enjoin persons not to repeat or continue, ...	X	519
PUBLIC OFFICER, proof of appointment of, ...	I	91
when not compellable to disclose official communications	,,	124
PUBLIC OFFICERS, Indian, when court must take judicial notice of accession to office, &c., of, ...	I	75
PUBLIC PLACE, definition of, ...	X	521
PUBLIC POLICY, consideration or object of agreement opposed to,	X	23
PUBLIC PROPERTY, prevention of injury to, ...	X	98
PUBLIC PROSECUTORS	X	57—62
local government may appoint, ...	,,	57
may be appointed for particular cases, or classes of cases, or generally ...	,,	58
may plead in all courts in cases under their charge; barristers, &c., privately instructed to be under their direction ...	,,	60

	Act.	Sec.
PUBLIC PROSECUTORS (*concluded*)		
may, with consent of court, withdraw charge	X	61
entitled to receive notice of appeal and copy of grounds of appeal in cases prosecuted by them	,,	62
to receive copy of record made on inquiry...	,,	198
notice to, of commitment ...	,,	202
to prosecute before court of session ...	,,	235
right of, to object to juror ...	,,	243
may be directed to appeal against acquittal	,,	272
to receive notice of appeals in certain cases...	,,	279
may appear on hearing of appeal ...	,,	280
PUBLIC RECORD, &c., relevancy of entry in, made in performance of duty	I	35
PUBLIC RIGHT, statement as to, ...	I	32, para. (4)
PUBLIC SECURITY, unlawful assembly may be dispersed by military force if necessary for, ...	X	482, 487
PUBLIC SERVANT disobeying direction of law with intent to cause injury; form of charge	X	sch. III
certain offences by, may not be prosecuted, except with sanction of government, &c. ...	,,	466
PUBLIC SERVICE, agreement to obtain employment in, ...	IX	23, ill. (*f*)
PUFFERS, auction-sale rendered voidable by employment of, ...	IX	123
PUNISHMENTS, summary, for contempts of certain kind ...	X	435
intention of entries under head of, ...	,,	sch. IV note 1st
PURCHASE-MONEY, effect of non-payment of, ...	IV	18
PURCHASER, suit against, by claimant to pre-emption ...	IV	17
PURSUIT by police of person liable to arrest without warrant ...	X	103
QUARTERLY returns of entries in marriage-registers	XV	29, 30, 31
transmission of marriage-certificates to Home Department	,,	81
QUASHING COMMITMENT, power of high court as to, ...	X	197
QUEEN'S EVIDENCE; procedure	X	347, 348
QUESTION asked without reasonable grounds, when may be reported to high court	I	150
See *Attorney, Leading question, Relevancy of facts, Veracity of witness, Witness, &c.*		
of law or usage, or as to construction of document or admissibility of evidence	VII	31, 35, 47, 70, 75
judge to decide whether, for judge or jury ...	X	256
QUESTIONS between persons claiming pre-emption as to immoveable property in towns how to be decided	IV	16
of fact, law and equity before recorder of Rangoon how to be determined	VII	7
to accused person	X	342
by court to jury	,,	263
judge to decide propriety of, ...	,,	256
by police, person bound to answer, except where answers would criminate him...	,,	118, 119, 134
as to identity of handwriting	XVIII	4
RACE or class, exclusion of, from operation of rules	IV	32
distinction of, no bar to operation of Act	X	11
RAILWAY OFFICER, service of summons on, ...	X	158
to serve as juror or assessor	,,	411

	Act.	Sec.
RANGOON, see *British territory, Collector of customs, Custom-house, Goods, King of ava, Recorder, Recorders, Re-importation, Passage.*		
RANK or profession to be stated	XV	schs. I, II, III, IV
RAPE, impeaching credit of prosecutrix for, ...	I	155, cl. (4)
RASHNESS, facts showing existence of, ...	I	14
RATAN, use of, in whipping	X	311
RATE of duty on spirits in Burma	XVI	2
RATIFICATION, effect of, ...	IX	196
may be express or implied	"	197
knowledge requisite to valid, ...	"	198
of unauthorized act forming part of transaction ...	"	199
of unauthorized act which, if done with authority, would have subjected a third person to damages ...	"	200
RATIONAL judgment	IX	12
READINESS to perform reciprocal promise	IX	51
REALIZATION of revenue	XXV	preamble.
REASONABLE compensation	IX	74
diligence	"	56,105,169, 212,214
facilities for performance of promise	"	67
limits within which to carry on business ...	"	27
manner	"	7, cl. (2)
notice	"	176,206
opportunity	"	38, cls. (2),(3)
place	"	49
presumption	"	108, exp., 178
price	"	89
steps to protect principal's interest	"	209
time for accepting proposal...	"	6
time for re-selling	"	107
time for examining and trying goods sold with warranty	"	118
grounds for dispersion of unlawful assembly by military force	X	483
REASONS for making commitment to be recorded	X	198
to be given in judgment except on jury-trials ...	"	464
RECALL of order to prevent obstructions	X	518, exp. IV
power of magistrate making inquiry to, ...	"	192
of summons to show cause why bond should not be taken to keep the peace	"	491
RECEIPT for income-tax	VIII	28, 36
by whom to be granted when income accrues in several places	"	28
contents of, ...	"	29, 36
to be admissible as evidence	"	29
to defaulter on recovery of amount due ...	"	36
provisions to apply to, ...	"	36
See *Collector, Defaulter.*		
for summons to be given	X	154
RECEIVER chargeable with income	VIII	19
may retain duty	"	20
RECEIVER OF STOLEN PROPERTY, arrest of reputed, ...	X	94
binding of, to be of good behaviour	"	505, 506
information respecting residence of, ...	"	90

	Act.	Sec.
RECEIVING NOTICES, fees for, ...	XV	82, cl. 1
RECEIVING STOLEN PROPERTY may be enquired into and tried where property was stolen, received or retained ...	X	66, ill. (*b*)
may be tried summarily ...	"	222
mode of recording evidence when not tried summarily ...	"	333, 336
and assisting in concealing it, joinder of charges of, ...	"	454, ill. (*l*)
'RECIPROCAL PROMISES' defined	IX	2, cl. (*f*)
performance of, ...	"	51—57
where they are to be simultaneously performed	"	51
where the order of performance is expressly fixed	"	52
where the order is not expressly fixed ...	"	52
liability of party preventing performance of one	"	53
RECITALS in Acts or notifications	I	37
RECKLESSNESS, see *Insolvent.*		
RECOGNITION of title of subsequent buyer	IX	98
RECOGNIZANCE	IX	74, exp.
when police may take, ...	X	125, 127, 132
to be executed by complainants and witnesses; binding on transfer of case	"	130
power to take, from accused person on adjournment of inquiry	"	194
in summons case.	"	204
bond; bail-bond; conditions	"	391
of surety, procedure to obtain discharge of, ...	"	395
bond, breach of,—procedure to recover penalty ...	"	398
to keep the peace	"	489
See *Security to keep the peace.*		
RECORD of evidence, presumption as to documents purporting to be,	I	80
transmission of, in certain cases, to superior court ...	VII	21, cl. 2
police abstracts of statements of witnesses not part of the,	X	119
of inquiry to be sent to court concerned and copy to public prosecutor	"	198
in summary trials, where no appeal lies	"	227
where an appeal lies	"	228
language of, ...	"	229
how prepared in cases decided by benches of magistrates... ...	"	230
statement of judge's direction to jury to form part of the,	"	255
of cases may be called for by high court	"	294
when to be amended after revision	"	299
of evidence when accused absconds	"	327
to be in narrative form	"	338
in cases of contempt, what to contain; special particulars in cases under section 228, Indian Penal Code ..	"	435
RECORDER OF MAULMAIN, transfer of pending suits, &c., from abolished court of, ...	VII	4
RECORDER OF RANGOON—		
transfers from abolished, to established, court of, ...	VII	4
law to rule as to questions of fact, law and equity arising before, ...	"	7
exception of court of, from jurisdiction of judicial commissioner	"	8, table, 9

	Act.	Sec.
RECORDER OF RANGOON,—(*continued*)		
application for authority to proceed with suit for property situated partly within jurisdiction of court of, ...	VII	20, cl. 3
transfer to, of certain appeals to judicial commissioner	,,	21, cl. 4
excepted from chief commissioner's power to suspend or remove	,,	23
court of, ...	,,	39
appointment, qualification and term of office of, ...	,,	39, cl. 2
place of holding court of, ...	,,	39, cl. 3
seal to be used by, ...	,,	39, cl. 4
local limits of civil jurisdiction of, ...	,,	40
civil jurisdiction of, ...	,,	41
power to determine what court shall try suit for immoveable property only partly within jurisdiction of, ...	,,	41
in what cases appeal from decree of, not allowed ...	,,	42
allowed ...	,,	42, cl. 2
may appoint assessors	,,	43
in trials with assessors, decision to rest with, ...	,,	43
to fix remuneration of assessors	,,	43, cl. 2
to exercise powers of district judge within local limits of his jurisdiction	,,	44
to exercise powers under Divorce Act throughout Burma	,,	44
powers of, in respect of small cause courts ...	,,	45
may grant new trial or review of judgment ...	,,	46
may require security before such grant	,,	46
reference by, to high court	,,	47
may proceed with case referred, and pass decree ...	,,	48
to dispose of case according to decision of high court in cases referred	,,	50
power to direct transfer of suits to court of, ...	,,	51
trial by, of suits transferred	,,	51
disposal of suits in which he is interested	,,	52
to exercise session-court powers within his civil jurisdiction	,,	53
sentences of death passed by, to be subject to confirmation	,,	53, 57
to exercise powers of revision of high court in respect of proceedings of magistrates	,,	54
to exercise powers of high court for trial of European British subjects	,,	55
commitments of European British subjects to be made to,	,,	55
proceedings of, in trials of European British subjects how regulated	,,	56
to license advocates to act in his court	,,	58
may make rules for qualification and admission of advocates	,,	58
power of, to suspend or withdraw licenses ...	,,	58
fees of advocates subject to control and taxation of,	,,	59
provision for discharge of duties of, in case of absence or vacancy	,,	60
to appoint, and may remove, ministerial officers of his court	,,	61
to keep registers, books and accounts, and to submit statements and returns	,,	62
to comply with requisitions, and be under control, of chief commissioner	,,	62
power of, to make and alter rules of practice and procedure, and to prescribe and alter forms for proceedings	,,	63

	Act.	Sec.
RECORDER OF RANGOON—(*concluded*)		
may, with sanction, make, and may alter, rules for service and execution of process, and settle table of fees to persons serving and executing	VII	64
to draw up list of holidays and vacations for sanction of chief commissioner	,,	65
and judicial commissioner sitting together to form special court ...	,,	66
may frame rules for sittings	,,	68
may sit as special court at request of either ...	,,	70
power to refer to special court cases pending before, ...	,,	71
appeal to special court from convictions by, ...	,,	73
appeals to be presented in court of, ...	,,	73
rules as to finding, in case of difference of opinion between judicial commissioner and, ...	,,	75
powers of court of reference in respect of sentences of death passed by, ...	,,	74
power of, to issue orders and commissions in Burma jails	,,	78
RECORDERS of Maulmain and Rangoon, abolition of courts of, established under Act XXI of 1863 ...	VII	3
RECORDING evidence, mode of, see *Evidence*.		
RECORDS of registrar's office, notices to be kept with, ...	III XV	5 40
of office, registers of marriages to be kept with, ..	XV	37, cl. 2; 55, cl. 2
RECOVERY of income-tax under revenue-law	VIII	36
of compensation from complainant for payment to accused	X	209
of penalty from person bound to keep the peace; procedure	,,	502
from surety	,,	503
from sureties to bond to be of good behaviour	,,	514
RE-DELIVERY to bailor without title	IX	166
REDEMPTION of goods pledged	IX	177
REDUCTION of bail by order of court of session	X	390
in rate of allowance to maintain wife or child ...	,,	537
RE-EXAMINATION of witness, meaning of, ...	I	137
on new matter introduced by permission of court	,,	138
to what directed	,,	138
to character	,,	140
leading question when may be asked in, ...	,,	142
when may not be asked in, ...	,,	142
accused's right to, in inquiries	X	191
of witnesses before court of session ...	,,	247
REFERENCE, books of, ...	I	57
to judicial commissioner in case of doubt as to certain questions	VII	31
procedure upon, ...	,,	32
costs of, chargeable to appeal	,,	32, cl. 2
to judicial commissioner when decision of first court confirmed on question of law or custom, &c. ...	,,	35
procedure upon, ...	,,	36
by judicial commissioner to high court	,,	37
procedure thereupon	,,	37, cl. 2
provision as to costs of, ...	,,	38

	Act.	Sec.
REFERENCE (*concluded*)		
by recorder to high court	VII	47
costs of, ...	,,	50
to high court by special court	,,	75
procedure upon, ...	,,	77
costs of, ...	,,	77, cl. 2
of cases and appeals for trial	X	47
of case; recognizance-bonds when binding ...	,,	130
and appeal where person is sentenced to death to be made together...	,,	271
PART VI—CHAPTER XXI, regarding, ...	,,	287—91
sentence of death to be referred; reasons in capital case for not passing death-sentence	,,	287
power of high court to confirm, annul, acquit, or order new trial	,,	288
power to direct further inquiry	,,	289
high court when to consist of two judges ...	,,	290
one judge	,,	291
power of court of, to stay, &c., order regarding property connected with offence	,,	419
form of order	,,	420
of stolen or suspected property to magistrate of district or magistrate of division of district	,,	420
by registrar in native state doubting authority of person forbidding certificate	XV	48, cl. 6
REFERENCES to Income Tax Act how to be read	VIII	1
to code of criminal procedure in former Acts to be taken to be made to this Act	X	2
to certain magistrates in former Acts how to be construed	,,	2
to code of criminal procedure	,,	sch. V
REFORMATORIES, government may establish or license, ...	X	318
REFRESHING memory by reference to writing, when made by witness ...	I	159
when made by other person	,,	159
when witness may refer to copy ...	,,	159
by expert, by reference to professional treatise	,,	159
REFUND of fee on petition	VIII	31, 32
of excess paid by assessee	,,	32
of whole amount paid by assessee	,,	32
in case of diminution or loss of income after assessment	,,	37
See *Collector*.		
REFUSAL to take oath, procedure of court upon, ...	VI	4, cl. 5
to accept offer of performance	IX	38
to perform promise	,,	39
to perform promise wholly	,,	39
to give reasonable facilities for performance of promise	,,	67
to accept when goods not ordered are sent with goods ordered	,,	119
to accept goods sold	,,	120
to pay lawful charges of finder	,,	169
by person accused of non-cognizable offence to give his name and residence; procedure	X	93
of complainant or witness to execute recognizance before police	,,	131

	Act.	Sec.
REFUSAL (*concluded*)		
of complainant or witness to execute recognizance before committing magistrate	X	360
of wife to live with husband, allowable grounds for, ...	,,	536
of consent to marriage, petition against, ...	XV	45
of certificate, petition against, ...	,,	46, 47
REFUSAL TO ANSWER by accused person on inquiry	X	193
by accused person...	,,	343
committal of witness by magistrate for, ...	,,	356
by court of session for,	,,	364
REFUSAL TO PLEAD, procedure in court of session in case of, ...	X	238
REFUSAL TO SUMMON defence-witness on inquiry	X	357
reasons for, to be recorded	,,	357, 362
without deposit of expenses	,,	359
in warrant cases	,,	362
REGIMENT, see *Officer commanding*.		
REGIMENTAL COMMITTEE for examination of alleged lunatic ...	XXI	3
REGISTER of summary trials...	X	227, 228
REGISTER-BOOK, marriages of native christians to be entered in, ...	XV	37
custody and transfer of, ...	,,	37
disposal of, when filled	,,	37, cl. 2
of certified marriages of native christians ...	,,	62
form of, ...	,,	62, cl. 2
deposit of extracts from, ...	,,	62, cl. 2
search of, and copies of entries in, ...	,,	63
kept under section 37, provisions applied to, ...	,,	64
penalty for destroying or injuring, ...	,,	75
counterfeiting, ...	,,	75, cl. 2
false entry in, ...	,,	75, cl. 3
REGISTER-BOOKS, fees for searching, ...	XV	82, cl. 4
copies of entries in, ...	,,	82, cl. 5
power to make rules as to supply of, ...	,,	83
power to make rules as to, for native states ...	,,	84
REGISTERS of marriages to be kept	XV	28,30,31,32
form of, ...	,,	28
quarterly returns of entries in, to be forwarded ...	,,	29, 30, 31
of marriages, searches in, ...	,,	79
certified copies of, to be evidence	,,	80
See *Recorder*.	,,	
REGISTRAR, notice of intended marriage to be given to, ...	III	4
to whom notice to be given	,,	4, cl. 2
See *Notices, Office, Procedure, Records*.		
to record nature of objection to marriage ...	,,	6, cl. 2
declaration to be signed before, and be countersigned by, ...	,,	10
and witnesses, marriage to be solemnized in presence of, ...	,,	11
may demand pre-payment of fees	,,	14, cl. 2
to give extracts from marriage-certificate-book ...	,,	14, cl. 3
of diocese may charge fee for special license ...	XV	11
of archdeaconry, returns to be sent to, ...	,,	29
where to send copies of returns ...	,,	29, cl. 3
REGISTRAR GENERAL of births, deaths and marriages, sending of marriage-certificates to, ...	XV	81, cl. 2
REGISTRARS OF MARRIAGES, appointment of.	III	3
may be appointed by name or as holding office	,,	3
See *District, Fees*.		
REGISTRATION of documents, law relating to, saved	IX	10
of written agreement without consideration ...	,,	25, cl. (1)

	Act.	Sec.
REGISTRATION (*concluded*)		
of marriages solemnized by ministers of religion ...	XV	27—37
of marriages under Part V	"	54
of marriages of native christians under Part V ...	"	59
marriage not void for irregularity as to, ...	"	77 (5)
correction of errors in, ...	"	78
of marriages, fees for, ...	"	82, cl. 2
REGISTRY of marriages contracted before passing of Act ...	III	20
REGULATION IX of 1793, sections 3 and 34 repealed ...	X	2, sch. I
I of 1798 in force (save parts relating to interest) in Panjáb	IV	3, sch. I
IX of 1804 repealed	X	2, sch. I
X of 1804 in force (so far as not modified) in Panjáb	IV	3, sch. I
XVII of 1806, sections 7 and 8 in force in Panjáb	IV	3, sch. I
VI of 1810 repealed	X	2, sch. I
XVI of 1810 repealed	X	2, sch. I
I of 1811 repealed	X	2, sch. I
III of 1812, section 4 repealed	X	2, sch. I
VIII of 1814 repealed	X	2, sch. I
IX of 1816 (*Madras*), sections 3, 4 and 5 repealed ...	X	2, sch. I
V of 1817 in force in Panjáb	IV	3, sch. I
XX of 1817, section 33, clauses 1 and 2, repealed ...	X	2, sch. I
III of 1818 in force in Panjáb	IV	3, sch. I
XI of 1825 in force in Panjáb	IV	3, sch. I
XX of 1825, sections 2 and 4 in force in Panjáb ...	IV	3, sch. I
II of 1827 (*Madras*) repealed	X	2, sch. I
VIII of 1827 (*Madras*) repealed	X	2, sch. I
XII of 1827 (*Bombay*), section 10, clause 4, section 13 and section 37, clause 3 repealed	X	2, sch. I
XIII of 1827 (*Bombay*), sections 1, 2, 3, 7, 8, 9, 14, 15, 27, 28 repealed	X	2, sch. I
repeal of section 34, clause 9 of, ...	XXIV	
III of 1830 (*Bombay*), sections 2 and 6 repealed ...	X	2, sch. I
IV of 1830 (*Bombay*), section 2 repealed ...	X	2, sch. I
VIII of 1831 (*Bombay*) repealed	X	2, sch. I
REGULATIONS of government, &c., how proved	I	78
repealed	"	2
(*Bengal*) in force in Panjáb, repeal of, ...	IV	4 & sch. II
for Panjáb made by governor general, &c., repeal of,	"	4 & sch. II
for Panjáb made under statute 33 Vic., cap. 3, section 1, not affected	"	2
See *Enactments, Laws and regulations, Military, Rules.*		
saved	IX	1
REIMBURSEMENT of person supplying necessaries to incapable person, or to one whom he is bound to support	IX	68
of person paying money due by another ...	"	69
RE-IMPORTATION into British territory of goods cleared at Rangoon for territory of king of Ava, Act for regulating, ...	XXIII	
See *British territory, Certificate, Collector of customs, Delivery, Exportation, Goods, King of ava, Master, Political agent, Saving, Transit, Vessel.*		
REJECTION of evidence, improper, when no ground for new trial ...	I	167
of appeal	X	278

	Act.	Sec.
REJECTION (*concluded*)		
of evidence, improper, when fatal	X	283
of sureties offered in bad livelihood cases ...	,,	516
RELATION of parties transacting fact in issue or relevant fact, facts showing, ...	I	9
of vendor or mortgagor not claiming, to whom right of pre-emption belongs	IV	14, second
RELATIONS, see *Family relations.*		
RELATIONSHIP, relevancy of opinions as to, ...	I	32, paras. (5), (6), 50
burden of proof as to, ...	,,	109
See *Consanguinity, Law or custom.*		
decision of questions as to pre-emption according to, ...	IV	16
RELATIVE, when lunatic may be delivered to, ...	X	434
RELEASE of one joint-promisor	IX	44
of principal debtor discharges surety	,,	134
of one co-surety, effect of, ...	,,	138
of attached property belonging to witness	X	354
of lunatic accused of bailable offence	,,	426
of person furnishing bail	,,	394
of person confined in default of furnishing security to keep the peace...	,,	500
of persons confined in default of furnishing security to be of good behaviour	,,	511, 512
of property seized by police as being of suspicious character	,,	415—22
RELEVANCY of admission in civil cases	I	23
of bad character in criminal preceedings... ...	,,	54
of character as affecting damages	,,	55
to prove conduct imputed, in civil cases...	,,	52
of conduct	,,	8
of confession made after removal of impression caused by inducement, threat, or promise ...	,,	28
of entry in public record, &c., made in performance of duty	,,	35
of facts	,,	5—16
forming part of same transaction ...	,,	6
which are the occasion, &c., of relevant facts or facts in issue	,,	7
necessary to explain or introduce a fact in issue or relevant fact	,,	9
in suits for damages...	,,	12
where right or custom in question	,,	13
shewing existence of state of mind, body, or bodily feeling	,,	14
bearing on question whether act was accidental or intentional	,,	15
bearing on opinions of experts	,,	46
judge to decide as to, ...	,,	136
of good character, in criminal proceedings ...	,,	53
of grounds of opinion	,,	51
of judgments, &c., to bar second suit or trial ...	,,	40
in probate, &c., jurisdiction ...	,,	41
of what conclusive proof ...	,,	41
in other than probate, &c., jurisdiction	,,	42
other than above	,,	43
of opinions as to existence of general custom or right ...	,,	48
handwriting	,,	47

	Act.	Sec.
RELEVANCY (*concluded*)		
of opinions as to relationship	I	50
usages, tenets, &c.	"	49
of oral admission as to contents of document ...	"	22
of previous conviction in criminal proceedings ...	"	54
of statement as to fact of public nature contained in certain Acts or notifications ...	"	37
in maps, charts and plans	"	36
of law of country contained in law-book ...	"	38
or act of conspirator	"	10
of statements	"	8
of facts, judge to decide as to, ...	X	256
'RELEVANT,' definition of, ...	I	3
RELEVANT FACT, existence of course of business, when a, ...	I	16
RELEVANT FACTS, examination-in-chief and cross-examination of witness must relate to, ...	I	138
proved, judge must decide upon, ...	"	165
when evidence of, admissible	"	5
when facts not otherwise relevant become, ...	"	11
written or verbal, statement of, by person dead or who cannot be found, &c., when relevant ...	"	32
See *Relevancy of facts.*		
RELIGION at time of second marriage not to affect punishment for bigamy	III	16
RELIGIOUS FOUNDATION, relevancy of opinions as to constitution of,	I	49
RELIGIOUS OFFICES, persons holding, exempted from serving as jurors or assessors	X	406
RELIGIOUS PURPOSES, exemption from tax of property employed for, ...	VIII	3
RELIGIOUS USAGE or institution, rule of decision in questions as to,	IV	5
	VII	6
RELIGIOUS VOWS to relinquish worldly affairs, disqualification as juror or assessor	X	405
REMAND of accused person during inquiry	X	194
to custody, order or warrant necessary for, ...	"	159
to custody of person from whom pardon has been withdrawn	"	322
See *Detention.*		
REMARKS regarding demeanour of witness	X	341
REMEDIES for infringement of exclusive right to pattern or design, &c.	XIII	4
REMEDY of creditor as to property not within jurisdiction at time of insolvency not affected	IV	30
REMISSION of performance of promise	IX	63
of part of penalty named in a recognizance or bail-bond	X	398
of punishment by government	"	322
of punishment passed on offender in contempt on his submission or apology	"	436
of fees, power as to, ...	XV	82, cl. 7
REMOTE loss or damage	IX	73
REMOVAL of officers of Burma courts	VII	22, 23, 25, 27, 61
of arrested person may be ordered by any magistrate ...	X	22
of judges	"	9
of obstruction or nuisance from public place ...	"	521
of person sentenced to transportation	"	319
when unnecessary	"	320
of offenders in native state	XI	11, 14
See *Accused persons, Expenses.*		
REMUNERATION to assessors in certain cases	VII	43, cl. 2

	Act.	Sec.
REMUNERATION (*concluded*)		
partner not entitled to, ...	IX	254, cl. (4)
RENT, order prohibiting payment of, in case of absconded person's property	X	172
RENUNCIATION of agency	IX	201
compensation for, ...	,,	205
notice of, ...	,,	206
may be expressed or implied	,,	207
REPAYMENT by person to whom money has been paid by mistake or under coercion	IX	72
REPEAL of rules and laws	I	2
of enactments	IX	1
of enactments; extent	X	2
of Panjáb salt rules	XXV	pream.
See *Acts, Regulations, Statutes.*		
REPLY, right of prosecutor to, ...	X	252
REPORT to local government in case of vagrants	IV	46
to superior court in certain cases...	VII	21, cl. 2
to chief commissioner in certain cases	,,	21, cl. 4, 52
of case in which local investigation is not deemed necessary, and of police orders on it	X	117
of chemical examiner; presumption as to signature ...	,,	325
to high court, when court of session or magistrate of district to make, ...	,,	296
of jury in local nuisance case, time allowed for making, ...	,,	523, 526
to local government of case of lunatic accused of non-bailable offence	,,	426
custody of person acquitted on ground of lunacy	,,	430
on lunatic prisoner to be made to local government every six months	,,	431
of offences, a duty on all persons aware of commission of them	,,	89
by police officer of commission of cognizable offence ...	,,	114
by police officer, final, of police investigation, what to contain and to whom to be submitted	,,	127
of apprehensions and detentions to be made to magistrate of district or of division of district	,,	132
of police investigation in cases of unnatural or sudden deaths to be made to magistrate of district or of division of district	,,	133
of unnatural or sudden death to be made to nearest authorized magistrate	,,	133
process may be issued on, in certain cases	,,	140
complaint may be entertained on, ...	,,	141
of unsuccessful search to local magistrate	,,	373
of seizure of false weights to magistrate having jurisdiction	,,	381
final, to contain list of articles taken from person searched	,,	387
of public servant when equivalent to complaint ...	,,	470
by subordinate police officer making investigation to officer in charge of police-station	,,	123
to government after inquiry on requisition for extradition	XI	14

	Act.	Sec.
REPORT (*concluded*)		
procedure thereupon	XI	14
of insanity of native officer, &c.	XXI	2
REPORTS of decisions, relevancy of, ...	I	38
presumption as to genuineness of, ...	,,	84
REPRESENTATIVE in interest, amendment of assessment on application of, ...	VIII	37, par. 3
of British government	XXIII	1
REPRESENTATIVES of promisor, when bound by promise ..	IX	37
of promisor, when they may employ another to perform promise	,,	40
of deceased joint-promisors	,,	42
of deceased joint-promisee	,,	45
of deceased or insane principal	,,	209
of deceased partner, property left in business by,	,,	241
of partner may apply to court to wind up ..	,,	265
REPUDIATION of agent's transaction on his own account ...	IX	215
of partnership by minor	,,	248
REPUTATION	I	3, ill. (*e*)
REQUISITION for extradition, procedure upon, ...	XI	14
REQUISITIONS, see *Recorder*.		
RESALE of goods on buyer's failure to perform	IX	107
RESCISSION of a contract	IX	62
of voidable contract	,,	64
of voidable contract, communication or revocation of, ...	,,	66
of contract, compensation to person rightfully rescinding	,,	75
of contract on failure of buyer to pay price at time fixed	,,	121
RESCUE and grievous hurt committed in connection with each other	X	454, ill. (*a*)
RESIDENCE, power to declare, ...	VIII	45
of parties intending marriage	XV	12, 38, 42 (*b*)
length of, to be stated	,,	schs. I & II
at time of marriage to be stated	,,	schs. III & IV
See *Contents*.		
RESISTING endeavour to arrest, police officer how to act in case of,	X	178
Res judicata	I	40
RESPONDENT, when summoning of, may be dispensed with ...	VII	30
RESPONSIBILITY of agent for sub-agent	IX	192, 193
RESTORATION by person rescinding voidable contract	IX	64
of advantage received under void agreement or contract becoming void	,,	65
of goods lent gratuitously	,,	159
of documents	X	367
of forfeited property of person alleged to have absconded	,,	173
of possession when may be ordered by criminal courts	,,	534
RESTRAINT of marriage	IX	26
of exercise of trade, &c.	,,	27
of legal proceedings	,,	28
arrested person not to be subjected to unnecessary, ...	X	182
RESUMPTION of inquiry or trial postponed on account of accused's state of mind ...	X	427
RETAINER of goods by seller	IX	96
agent's right of, ...	,,	217
RETIRE, jury may, to consider verdict	X	263
RETIREMENT of a partner	IX	253, cls. (8), (9)

	Act.	Sec.
RETIRING partner, property left in business by, ...	IX	241
RETRANSFER of referred cases	X	44
RETURN by treasurer, &c.	VIII	8
of profits of companies	"	11
of income, notice requiring, ...	"	22
how made	"	23
to be made to entitle to petition... ...	"	30
penalty for failing to deliver, ...	"	38
See *Annual return, Collector, Declaration, Notice.*		
by person to whom anything has been delivered by mistake or under coercion	IX	72
of goods bailed	"	160
RETURNS, power to prescribe forms of, ...	VIII	46 (*a*)
See *Collector.*		
of marriages, power to make rules as to, ...	XV	83
of marriages, power to make rules as to, for native states	"	84
See *Contents, Quarterly, Recorder.*		
REVENUE, sale for arrears of,...	IX	23, ill. (*i*)
See *Agreement.*		
from salt-mines	XXV	pream.
REVENUE CHARGE, see *Chief revenue charge.*		
REVENUE COURT, appeals against convictions by, for contempt ...	X	268
power of, to punish certain contempts; record what to contain	"	435
certain contempts by European British subjects	"	438
saving of powers of, ...	"	535
REVENUE LAW, recovery of income-tax under, ...	VIII	36
REVERSAL of decision, improper admission or rejection of evidence, when no ground for, ...	I	167
REVIEW of judgment, power of recorder to allow, ...	VII	46
by court which pronounced it illegal after judgment signed	X	464
REVISION, powers of, exerciseable by recorder	VII	54
highest court of, in province is high court ...	X	4
procedure of court of, where no charge has been drawn up in trial of warrant case	"	216
PART VI—CHAPTER XXII, regarding,	"	292—300
power of high court to frame rules; what rules require sanction of local government	"	292
calendars of trials by subordinate courts	"	293
high court may call for record of cases	"	294
court of session and magistrate of district may call for records of cases decided by subordinate courts ...	"	295
report to high court; order of commitment ...	"	296
powers of—power to pass judgment, sentence or order...	"	297
high court may order trial or commitment for trial ...	"	297
may alter finding and sentence; proviso ...	"	297
may annul conviction and order new trial ...	"	297
may annul improper, and pass proper, sentence	"	297
may reduce or enhance sentence ...	"	297
may suspend execution of sentence ...	"	297
powers of, confined to high court	"	297
optional with high court to hear parties	"	297
certain courts may order inquiry into dismissed complaints	"	289
order to be certified to lower court or district magistrate; record when to be amended; verdict of jury may be reversed for mis-direction	"	299

	Act.	Sec.
REVISION (*concluded*)		
provisions of section 283 to apply	X	300
court may order compensation	"	308
of sentence by court when whipping cannot be wholly carried out	"	313
when court of, may order new trial when conviction is based on evidence taken partly by one officer and partly by another	"	328
power of court of, to direct offer of pardon ...	"	348
to order commitment on withdrawal of pardon	"	349
of orders by magistrate of district enforcing penalties of bail-bonds	"	398
of list of jurors and assessors ; procedure ...	"	402
annual, of list of jurors and assessors	"	403
power of court of, to stay, &c., order regarding property connected with offence	"	419
form order may take	"	420
duty of court of, in respect of material error in charge	"	451
power of court of, to order, in case of certain convictions, convicted person to enter into recognizances to keep the peace	"	489
security	"	490
REVIVAL of Panjáb salt rules	XXV	pream.
REVIVE, see *Municipal committees.*		
REVOCATION of order of exemption from income-tax ...	VIII	4
of proposals and acceptances	IX	3, 5
when completely communicated	"	4
of rescission of voidable contract	"	66
of authority	"	201
compensation for, ...	"	205
notice of, ...	"	206
may be expressed or implied	"	207
of continuing guarantee	"	260
of continuing guarantee by change in firm ...	"	260
of notification of exemption from Emigration Act ...	XIV	1
of licenses	XV	6 ; 9, cl. 2
to be notified	"	9, cl. 2
of appointment of marriage registrar	"	8, cl. 2
REWARD, finder of goods may sue for, ...	IX	160
RIGHT, relevancy of facts as to existence of, ...	I	13
general, relevancy of opinions as to existence of, ...	"	48
of accused to be defended	X	186
of exemption from service as juror or assessor may be waived	"	406
of possession not to be inquired into in possession-case	"	530
of prosecutor and accused person to recall witness after amendment of charge	"	449
of use of land or water, disputes concerning, ...	"	532
of way, disputes concerning, ...	"	532
RIGHT OF PRE-EMPTION, to what transactions it extends ...	IV	10
presumption as to existence of, in village-communities	"	11
what to be presumed to extend to ...	"	11
in cities and towns not presumable, but may be proved	"	12
notice by vendor or mortgagee of property subject to, ...	"	13

	Act.	Sec.
RIGHT OF PRE-EMPTION, (*concluded*)		
devolution of, where property is part of village	IV	14
as to immoveable property in towns, decision of questions between persons claiming, ...	,,	16
suit by persons claiming, ...	,,	17
decree in favour of person considered to have, ...	,,	17
when lost	,,	18
not claimable by person who joined in sale	,,	19
of co-sharers in well, where chakdári tenure prevails	,,	20
RIGHT OF STOPPAGE in transit, continuance of, ...	IX	101
cessation of, on assignment by buyer of document showing title	,,	102
RIGHTS, see *Administrator, Executor*.		
RIOT, duty of public as to suppression of, ...	X	91
orders to prevent, ...	,,	518
RIOTING, grievous hurt and assaulting public servant, joinder of charges of, ...	X	454, ill. (*f*)
recognizance to keep the peace in addition to conviction of,	,,	489
security in addition to recognizance from person convicted of, ...	,,	490
RISK in separating goods ordered from goods not ordered ...	IX	119
faults in goods bailed exposing bailee to, ...	,,	150
RITES, rules, ceremonies and customs to be observed ...	XV	5 (1), (2)
relating to marriage ...	,,	73, cls. 3, 4
RIVERS, see *Buoys, Crossing*.		
ROBBER, arrest of reputed, ...	X	94
binding of, to be of good behaviour	,,	505, 506
information regarding movements of a, ...	,,	90
ROBBERY and hurt, joinder of charges of, ...	X	454, ill. (*o*)
form of charge of, ...	,,	sch. III
'ROMAN CATHOLIC' defined	XV	3
ROMAN CATHOLIC BISHOP, exception of clergymen licensed by, from restriction as to time for solemnizing marriages ...	XV	10 (2)
marriages by clergymen of church of Rome to be registered by person, and according to form, directed by,	,,	30
saving of certain marriages solemnized under license from, ...	,,	69, cl. 2
ROMAN CATHOLIC MARRIAGES, part VI not to apply to, ...	XV	65
saving of certain, ...	,,	65
RULE of the road, court must take judicial notice of, ...	I	57
on land or at sea	XVIII	5
relating to opium, confiscation in case of breach of, ...	XXVI	5
RULES of evidence repealed	I	2
laws and regulations made for the Panjáb and having force of law	IV	pream.
for administration of insolvent estates, power to frame and alter, ...	,,	31
power to exclude from operation of	,,	32
for exercise of jurisdiction of court of wards	,,	38
as to slaughter of kine and sale of beef	,,	43
as to entry of armed men into towns	,,	44
as to crossing of rivers, and keeping of buoys or skins for such crossing	,,	47

	Act.	Sec.
Rules (*concluded*)		
as to use of pasturage and natural products of government lands	IV	48
as to growth, sale and keeping of opium	,,	49
as to matters mentioned in sections 43—49, power to issue and alter, ...	,,	50
made under Act, penalty for breach of, ...	,,	50, cl. 2
provisoes as to, ...	,,	50, cl. 3
existing rules to be deemed to be, ...	,,	50, cl. 4
republication of, ...	,,	51
as to forests and jungles in hill districts, in force in Panjáb	,,	3 & sch. I
for Panjáb, made by Governor General, &c., repeal of, ...	,,	4 & sch. II
for qualification and admission of advocates, power to make,	VII	58
of practice and procedure, recorder's power to make and alter,	,,	63
to be published and then used ...	,,	63
not to be inconsistent with law, and to be sanctioned ...	,,	63
for service and execution of process, recorder's power to make and alter, ...	,,	64
to be published ...	,,	64
made under Acts XXI of 1863 and III of 1866 to be in force till superseded ...	,,	65, cl. 2
of practice for regulating sittings of special court, power to make, ...	,,	68
to be observed in case of difference of opinion in special court	,,	75
for assessment of income from land	VIII	21
for guidance of officers and enforcement of Act, power to make, ...	,,	46 (*b*)
of evidence, see *Evidence*.		
for guidance of magistrates' benches by whom and on what subjects to be made	X	52
alteration and repeal of, ...	,,	53
may be passed by high court ; sanction needed to certain,	,,	292
may be made by government for reformatories ...	,,	318
for the payment of expenses of complainants and witnesses	,,	421
of procedure of persons to whom certain powers are delegated	XI	5
under Act, power to make, ...	,,	15
as to fees, register-books and returns of marriages, power to make, ...	XV	83
for native states as to fees, register-books and returns of marriages, power to make, ...	,,	84
relating to salt in Panjáb, Act to give force of law to certain, ...	XXV	
See *Rites*.		
Ruling on reference to judicial commissioner	VII	32
of court from whose decision appeal is made when to be upheld		75
Safety, orders to prevent danger to, ...	X	518
Ságar, see *Sind ságar*.		
Salaries, duty on, ...	VIII	5
deduction of duty from, ...		7 (*a*)
Sale of beef, control of, ...	IV	43
of goodwill	IX	27
for illegal purpose	,,	57
defined	,,	77

	Act.	Sec.
SALE (*concluded*)		
how effected	IX	78
on credit	"	78,ills.(*c*),(*d*)
of immoveable and moveable property	"	85
of non-existent goods	"	87
by one joint-owner	"	108
by sample	"	112
breach of contract of, ...	"	120
by finder of goods	"	169
of thing pledged	"	176
See *Application, Auction, Buyer, Concealment, Delivery, Denomination, Destruction, Earnest, Examination, Finishing, Gambling-house, Insolvency, Latent defects, Lien, Loss, Majority, Making, Moveable property, Negotiable instruments, Notice, Order, Part payment, Payment, Place, Possession, Postponement, Presumption, Price, Profit, Property, Puffers, Recognition, Refusal, Re-sale, Ship, Warranty, Weighment.*		
of attached property of person who has absconded ...	X	172
of attached property belonging to witness	"	354
of complainant's moveable property	"	209
of goods and moveable property of person ordered to abate local nuisance	"	525
of moveable property under warrant for levy of fine ...	"	307
of juror or assessor	"	414
of persons bound to keep the peace ...	"	502
of surety	"	503
of surety to bond to be of good behaviour	"	514
of perishable property	"	415
of property may be ordered by any magistrate in cases judicially before him	"	22
of property belonging to person not appearing to his bail ...	"	396
sureties	"	397
of suspicious property of perishable nature may be ordered by any magistrate	"	22
of suspicious or stolen property, by whom may be ordered ...	"	417
of goods shipped for re-importation and not cleared ...	XXIII	4
of opium in the Panjáb	XXVI	3, 5
SALES under decree of court, pre-emption extends to,... ...	IV	10
in execution of decrees, procedure in respect to, applied ...	VIII	36 (*a*)
SALT not the produce of the Sind Ságar or Kálábágh mines ...	XXV	1 (*h*)
of which possession is prohibited	"	1 (*h*), (*i*)
See *Alimentary salt.*		
SALT MINES in Panjáb	XXV	pream.
SALT (*Panjáb*) ACT, 1872	XXV	
SAMPLE, warranty on sale of goods by, ...	IX	112
SANCTION to prosecute, see *Prosecutions in certain cases.*		
necessary before entertaining complaint or acting without complaint in certain cases ...	X	142
to new charge; where necessary it is to be obtained, unless given to prosecution on same facts ...	"	450
nature of,—when to be given	"	470
SATISFACTION instead of performance of promise	IX	63
SAVING of jurisdiction of commissioners of police, &c., in presidency towns	X	540
of jurisdiction and procedure of landholders, heads of villages, village police officers, and cantonment magistrates	"	541

	Act.	Sec.
SAVING (*concluded*)		
of laws regarding nuisances	X	529
of police-powers under local and special laws	,,	111
of powers conferred by other laws	,,	31
of powers of collectors and revenue courts	,,	535
of special procedure under Acts not specifically repealed ...	,,	2
of special procedure for levy of fines under local and special laws	,,	307
of certain roman catholic marriages	XV	65
of marriages solemnized under special license ...	,,	69
of section 12, Act XV of 1852	XVIII	12
of Administrator General's Act (XXIV), 1867 ...	XX	1
of probates and letters of administration granted by Bombay high court, and of powers, rights and duties of executors and administrators thereunder	,,	1
of Bombay high court's criminal jurisdiction over European British subjects	,,	1
of certain orders and acts	XXII	2, par. 2
of certain goods from provision as to seizure and confiscation	XXIII	6, par. 2
SCANDALOUS QUESTIONS, when court may forbid, ...	I	151
when court may not forbid, ...	,,	151
SCHEDULES—Repeals	X	sch. I
Forms of summons, warrants, bonds, and recognizances	,,	sch. II
Forms of charges	,,	sch. III
Tabular statement of offences	,,	sch. IV
Acts containing references to criminal procedure code	,,	sch. V
SCIENCE, opinions of experts on points of, ...	I	45
SEA, see *Imported, Land.*		
SEAL, comparison of, with admitted or proved seal	I	73
presumption as to genuineness of, ...	,,	82
of recorder's court	VII	39, cl. 4
of high court, copy of judgment to be sent under, ...	,,	50
of special court	,,	67
of bishop	XV	10 (1); 11, cl. 3
SEALS of courts, &c., of what seals court must take judicial notice	I	57
of courts in Burma	VII	13 (1)
SEARCH for offenders, duty of inhabitants of village to allow, ...	IV	42
of house entered by person against whom warrant of arrest has been issued	X	179—181
for person liable to arrest without warrant	,,	99
in marriage-registers to be allowed	XV	63
provisions as to, applied ...	,,	64
in register and for certificates, duplicates &c. ...	,,	79
fees for, ...	,,	82, cl. 4
SEARCH-WARRANT, other than in course of inquiry, may be issued by magistrate of first class	X	26
to produce document	,,	366
SEARCH-WARRANTS	X	368—87
when grantable; may be limited	,,	368
for letter in post office by whom issuable; order to detain letter	,,	369
ordinarily to be directed to police	,,	370
one police officer may endorse, to another	,,	371
execution of, out of district in which issued	,,	372
may be executed beyond jurisdiction without endorsement; thing found how dealt with; report to magistrate having jurisdiction	,,	373

	Act.	Sec.
SEARCH-WARRANTS (*concluded*)		
thing found in presidency town; procedure ...	X	374
magistrate may issue, to be executed outside his jurisdiction after or without endorsement	"	375
magistrate may send, by post, to magistrate of another district or division of district; endorsement and execution by such magistrate; execution in presidency town	"	376
for search of house or place suspected to contain stolen property or forged documents, &c.	"	377
magistrate may attend personally; may direct search in his presence	"	378
search by officer in charge of police-station or police officer investigating	"	379
officer in charge of police-station may require officer in charge of another police-station to search... ...	"	380
inspection of weights and measures by officer in charge of police-station	"	381
person in charge of closed house to allow of search ...	"	382
place to be searched may be broken open	"	383
mode of searching zanána	"	384
search to be made in presence of witnesses to be summoned; not to be required to attend court of magistrate	"	385
women how searched	"	386
search of persons arrested but not bailed	"	387
SEAS, arrest of person who has committed offence on high, ...	X	157
procedure on arrest	"	174, 175
SEASONS, right of use of land or water at particular,—limitation ...	X	532
SECOND suit or trial, relevancy of judgments, &c., to bar, ...	I	40
appeal to judicial commissioner	VII	33
SECONDARY evidence, after notice to produce, ...	I	66
certified copies, ...	"	63
other copies, ...	"	63
how far counterpart is, ...	"	63
meaning of, ...	"	63
when admissible, of existence, condition or contents of document	"	65
SECRETARY, penalty on, for default	VIII	38
See *Treasurer*.		
SECRETARY OF STATE FOR INDIA IN COUNCIL, saving of agent for, ...	VII	58
certain marriage-certificates to be forwarded to, ...	XV	81, cls. 2, 3,
SECRETARY TO GOVT., HOME DEPT., transmission to, of certain marriage-certificates ...	XV	81, cl. 2
SECRETARY TO LOCAL GOVERNMENT, copy of returns of marriages to be sent to, ...	XV	29, cl. 3
returns of marriages to be sent to, ...	"	30, cl. 2; 31, cl. 3
certificates of marriages to be sent to, ...	"	34, cl. 3; 36, 55
registers of marriages to be sent to, ...	"	37, cl. 2; 55 cl. 2
separate certificate to be sent to, in case of correction of error	"	78

	Act.	Sec.
SECRETARY TO LOCAL GOVERNMENT (*concluded*)		
to allow searches and give copies	XV	79
to send certificates of certain marriages to Home department	"	81
SECTION offended against to be quoted in charge	X	439
SECTIONS 46 to 50 applied to cases transferred to judicial commissioner	VII	52, cl. 2
SECURING attendance of witnesses	X	350—64
documentary evidence	"	365—67
See *Witnesses*.		
SECURITIES, surety's right to benefit of creditor's, ...	IX	141
SECURITY, see *Debtor*.		
from applicant for new trial or review of judgment ...	VII	46
terms of, in bail-bond taken by police	X	129
for lunatic accused of bailable offence	"	426
SECURITY FOR KEEPING THE PEACE—		
may be demanded by magistrate of first class and magistrate of division of district ...	X	26, 28
no appeal against order requiring, ...	"	286, ill. (*c*)
CHAPTER XXXVII, regarding, ...	"	489—503
personal recognizance in case of conviction of certain offences	"	489
procedure where convicting officer is not magistrate of district, nor in charge of division of district, nor of first class	"	489
where order is passed by court other than that which passed judgment, or at different times ...	"	489
bond in addition to personal recognizance ...	"	490
summons to person to show cause why he should not give bond	"	491
summons may be issued on information which magistrate believes; may be recalled ...	"	491
form of summons, and what to contain; when unnecessary	"	492
form of bond; penalty	"	493
when warrant of arrest may be issued for person whom it is desired to bind	"	494
magistrate may dispense with personal attendance of person informed against	"	495
discharge of person informed against ...	"	496
order to find security; non-compliance ...	"	497
time for which person may be bound to keep the peace; limit of imprisonment under section 497	"	498
procedure where it is desired to bind person to keep the peace for longer period than one year ...	"	499
magistrate of district may discharge recognizances and sureties in certain cases	"	500
sureties may apply for discharge; procedure ...	"	501
breach of bond must be proved; if sufficient cause not shown, magistrate may to enforce payment of penalty ...	"	502
what amounts to breach of bond ...	"	502
where proceedings under chapter may be taken ...	"	502
recovery of penalty from surety ...	"	503
SECURITY TO BE OF GOOD BEHAVIOUR—	X	504—17
may be demanded by magistrate of first class ...	"	26

	Act.	Sec.
SECURITY TO BE OF GOOD BEHAVIOUR—(*concluded*)		
not by magistrate of division of district, unless he is magistrate of first class	X	28
no appeal against order for, when passed by magistrate of district	,,	286, ill. *(d)*
cases in which magistrates may require, for six months	,,	504
procedure where person is under sentence ...	,,	504
when sessions judge or unauthorized magistrate thinks person should be bound	,,	504
powers of magistrate of division of district, being second class magistrate, to inquire	,,	504
when magistrate may require, for one year ...	,,	505
procedure when magistrate considers person should be bound for more than one year ...	,,	506
proceedings when to be laid before court of session ...	,,	507
court of session may require, for period not exceeding three years	,,	508
contents of order for, form of bond ...	,,	509
duration of imprisonment in default of furnishing, to be simple or rigorous	,,	501
magistrate of district may release persons confined under orders of magistrate	,,	511
magistrate of district to report cases of persons confined under orders of court of session when he thinks release proper	,,	512
surety may apply for discharge; procedure ...	,,	513
recovery of penalty from sureties; what amounts to breach of bond	,,	514
issue of summons and warrant of arrest ...	,,	515
place where proceedings may be held	,,	515
mode of taking evidence	,,	515
previous convictions may be proved	,,	515
sureties may be rejected on ground of character ...	,,	516
chapter not applicable to European British subjects ...	,,	517
SEIZURE of suspicious property by police to be reported to magistrate	X	415
goods liable to, ...	XXIII	6
SENIOR CHAPLAIN OF CHURCH OF SCOTLAND, returns of marriages to be forwarded through, ...	XV	31
SENIOR MARRIAGE REGISTRAR, appointment of, ...	XV	7, cl. 2
sending copy to, of notice of intended marriage	,,	15
procedure of, on receipt of notice ...	,,	16
certificates of marriages to be sent to, ...	,,	34
to cause certificates to be copied ...	,,	34, cl. 2
to send certificates to secretary to government	,,	34, cl. 3; 36
to number copies of certificates ...	,,	35
to add number to certificates ...	,,	36
registers of native christian marriages to be sent to, ...	,,	37, cl. 2
to send such registers to secretary to government ...	,,	37, cl. 2
penalty for marrying without sending notice to, ...	,,	71(3); 73, cl. 6
penalty for issuing certificate without sending notice to, ...	,,	73, cl. 6

	Act.	Sec.
SENIOR OFFICER of police when may exercise certain powers of district superintendent of police	X	138
SENTENCE, see *Judgment, order and sentence.*		
of more than three years' imprisonment, passed by assistant session judges, subject to confirmation ...	X	18
powers of magistrates to pass, ...	"	20
power to pass, on proceedings of subordinate magistrate, inherent in magistrate of division of district ...	"	28
which may be passed by specially empowered magistrates	"	36
inadequate; procedure where offence within jurisdiction of magistrate of second or third class cannot be adequately punished by him	"	46
by magistrates on European British subjects ...	"	74
by court of session on European British subjects ...	"	76
on conviction in summons cases	"	211
of fine may be pronounced in presence of agent ...	"	211
on trial of warrant case	"	220
in cases tried by jury	"	263
passed by certain officers not appealable	"	273, 274
reversal or enhancement of, by appellate court ...	"	280
suspension of, deducted from term	"	281
of death to be confirmed by high court	"	287
by court of reference	"	288, 289
power of revision court to annul, reduce, or enhance, ...	"	297
which may be passed on person tried for more than one offence at one trial	"	314
on escaped convict, currency of, ...	"	316
on person already sentenced for another offence ...	"	317
of transportation not to specify place	"	319
of death how expressed	"	321
person under, may be brought up to be bound to be of good behaviour on expiration of, ...	"	504
SENTENCES of death passed by recorder to be confirmed ...	VII	53, 57
of special court in cases referred	"	72
of death passed by recorder, powers of special court in respect of, ...	"	74
SEPARATE debts of partner, payment of, ...	IX	262
property of partner, application of, ...	"	262
SEPARATION of goods ordered from goods not ordered ...	IX	119
SERIES of similar occurrences	I	15
of letters or papers, statement contained in document forming part of, ...	"	39
SERVANT of legal practitioner, communications to, ...	I	127
See *Attorney, Barrister.*		
or pensioner of company, deduction of tax from, ...	VIII	8
remunerated by share of profits, not a partner ...	IX	242
of injured person, &c., objectionable juror	X	244
SERVICE of notices	VIII	44
See *Fees, Process.*		
of order to abate local nuisance	X	522
of summons through whom made	"	153
how made	"	154
on government or railway servant	"	158
'SESSION CASE' defined	X	4
improperly dismissed [illegible] of commitment of, ...	[illegible]	296
SESSION COURT may accept, in certain cases, commitment made without jurisdiction	X	33
inquiry preliminary to commitment to, see *Inquiry (Chapter XV), Trial by court of session.*		

	Act.	Sec.
SESSION COURT (*concluded*)		
duty of, as to appeal by person sentenced to death	X	271
See *Court of session.*		
SESSION COURT HOUSE, objections to jurors and assessors named in list to be heard in, ...	X	401
SESSIONS DIVISION, a court of session to be in each, ...	X	15
a session judge to be in each, ...	"	16
SESSIONS DIVISIONS to be formed	X	12
may be altered by local government ...	"	13
existing local jurisdictions of courts of session to be, ...	"	14
SESSIONS JUDGE, commissioner to have powers of, ...	VII	9, cl. 2
judge of Maulmain to have powers of, ...	"	9, cl. 3
appointment and powers of, ...	X	16
power of, to make over cases to additional or joint sessions judge ...	"	17
to make over cases to, and to confirm, &c., certain sentences passed by, assistant sessions judges ...	"	18
to confirm, modify or annul certain sentences passed by specially empowered magistrates	"	36
may not try European British subjects unless he is himself a European British subject ...	"	72
power of, to try European British subjects ...	"	76
when not a European British subject, to report cases of European British subjects to high court	"	77
how to record evidence, see *Evidence.*		
to frame list of jurors and assessors ...	"	400
to revise list	"	402
may summon exempted person to serve as juror or assessor on trial of European British subject	"	406
SET of promises	IX	2, cl. (*e*)
SET-OFF, performance of promise by, ...	IX	50
SETTLEMENT, see *Beneficial interest, Right of pre-emption.*		
SEVERE sentence may be mitigated by court of revision ...	X	297
SHAKING credit of witness, questions in cross-examination for, ...	I	146—150
not to be asked without reasonable grounds	"	149
when court may report asking of question to high court ..	"	150
"SHALL PRESUME" defined	I	4
SHARE, see *Immoveable property, Village.*		
SHARES of lands to which pre-emption may be presumed to extend	IV	11
in well, right of pre-emption as to, ...	"	20
'SHIFTED TO' substituted for 'on' in Evidence Act	XVIII	9
SHIP "to be rigged and fitted," sale of, ...	IX	80, ill.
putting goods sold on board purchaser's, ...	"	90, ill. (*b*)
joint-owners of, not partners	"	239, ill. (*e*)
SHIPPER of goods, original of certificate to be given to, ...	XXIII	2, par. 2
SHIPPING COMPANIES, duty on profits of, ...	VIII	10
See *Treasurer.*		
SHIPS plying to and from British Indian ports, duty on persons serving on board of, ...	VIII	5
under contract with European state, Act does not apply to,	XII	1
of-war, Act does not apply to, ...	"	1
SHOP, search of, for false weights, &c.	X	381
SHOWING CAUSE, see *Attachment, Local nuisances, Sureties.*		

	Act.	Sec.
SIGNATURE, comparison of, with admitted or proved signature ...	I	73
proof of, when necessary	"	67
presumption as to genuineness of, ...	"	82
of officer of high court, copy of judgment to be sent under, ...	VII	50
to receipt to be judicially noticed	VIII	28
of promise to pay debt barred by limitation ...	IX	25
of chemical examiner; presumption	X	325
of complaint to police	"	112
of examination of accused	"	346
of receipt for summons	"	154
to returns of entries in marriage-registers ...	XV	29
to entries in certificates and marriage-register-books ...	"	33, 54
to certificates	"	34, cl. 3; 61, cl. 2
to number of entry added to certificate ...	"	36
of false notice or certificate, penalty for, ...	"	66
to correction of errors	"	78
of person having custody of registers, &c., certified copies under, to be evidence	"	80
of certificates sent to Home department ...	"	81, cl. 2
of person solemnizing marriage	"	sch. III
SIGNATURES of Indian public officers, when judicially noticed ...	I	57
to certificate of marriage	III	13
of parties married	XV	sch. III
of witnesses present	"	sch. III
SIGNING, see *Certificate, Declaration.*		
SIGNING JUDGMENT when pronounced; dating	X	464
SIGN MANUAL of British sovereign, judicially noticed ...	I	57
SIGNS, evidence of dumb witnesses by, ...	I	119
SIKH, see *Marriage.*		
SILENCE when fraud	IX	17, expl.
guarantee obtained by keeping, ...	"	143
See *Concealment.*		
SIMPLE AFFIRMATION, see *Oath, Solemn affirmation.*		
SINDH, Bombay high court has no jurisdiction in, ...	V	
amendment of Act to remove doubts as to Bombay high court's jurisdiction in, ...	XX	
postponement of commencement of code of criminal procedure in, ...	XXVII	
SIND SÁGÀR DOÁB, salt-mines in, ...	XXV	pream. 1 *(h)*, *(i)*
SITTINGS of special court, power to make rules for, ...	VII	68
SKILL required from agent	IX	212
See *Want of skill.*		
SKINS, see *Buoys, Crossing.*		
SLAUGHTER of kine, control of, ...	IV	43
SLAVE, wrongful confinement as a, and kidnapping, joinder of charges of, ...	X	454, ill. *(e)*
SMALL CAUSE COURT, Rangoon, excepted from jurisdiction of judicial commissioner	VII	8, table
certain courts may be invested with powers of judge of, ...	"	17
convictions by, of contempt appealable to court of session ...	X	268
SMALL CAUSE COURT POWERS of judge of Maulmein ...	VII	8, table
SMALL CAUSE COURTS excepted from jurisdiction of commissioner	VII	8, table
powers of judicial commissioner in relation to, ...		8, table

	Act.	Sec.
SMALL CAUSE COURTS (*concluded*)		
excepted from judicial commissioner's power to withdraw and try suits	VII	8, table
exception from jurisdiction of certain courts of suits cognizable by, ...	"	8, prov.
law regulating procedure of, applied ...	"	17, cl. 2
powers of presiding officers of, as to ministerial officers	"	25, cl. 3
suits cognizable by, excepted from recorder's jurisdiction	"	41
powers of recorder in respect of, ...	"	45
SMUGGLED GOODS, contract to deliver, ...	IX	58, ill.
SOLDIER (private) when protected in dispersing unlawful assembly	X	486, 487
prosecution of, for act done in dispersing unlawful assembly by military force; sanction necessary ...	"	488
SOLDIERS, see *Native officers.*		
SOLEMN AFFIRMATION, simple affirmation in place of oath or, ... See *Declaration, Oath.*	VI	3
SOLEMNIZATION of marriage...	XV	25, 51
SOLEMNIZING marriage without due authority, penalty for, ...	XV	68
out of proper time or without witnesses, penalty for, ...	"	69
with minor, without notice or before lapse of fixed time	"	70
without publishing notice, penalty for,...	"	71 (1)
after expiry of certificate	"	71 (2)
with minor, without order of court before lapse of time, or without sending copy of notice	"	71 (3)
without publishing notice or after expiry of certificate, penalty for, ...	"	73, cl. 5
with minor, before lapse of fixed time or without sending copy of notice ...	"	73, cl. 6
authorizedly forbidden	"	73, cl. 8
marriage not void for irregularity as to time or place of, ...	"	77 (4)
SOLICITORS, bill drawn without authority by one of a firm of, ...	IX	25, ill. (*b*)
SOLITARY CONFINEMENT awardable by magistrates of first and second class	X	20
SOUND MIND	IX	12
SOVEREIGN, foreign, existence, &c., of, when judicially noticed ...	I	57
SOVEREIGN POWER, see '*Coin*' *defined.*		
SPACE, see *Steam-ships.*		
SPECIAL COURT, sentences of death passed by recorder to be confirmed by, ...	VII	53
constitution of, ...	"	66
precedence in, ...	"	67
seal of, ...	"	67, cl. 2
power to frame rules as to times and places of sittings of, ...	"	68
civil appeals from decrees of judge of Maulmain to be determined by, ...	"	69
judicial commissioner and recorder may, at request of either, sit as, ...	"	70
may be directed to try any civil or criminal suit or appeal pending in court of judicial commissioner or recorder	"	71
decree of, to be deemed decree of original court ...	"	72
appeal to, from recorder in criminal cases ...	"	73

	Act.	Sec.
SPECIAL COURT, (*concluded*)		
powers of court of reference exerciseable by, ...	VII	74
rules as to finding of, in case of difference of opinion	,,	75
may, in case of civil suit, proceed notwithstanding reference, and pass contingent decree ...	,,	76
SPECIAL EXCEPTIONS need not be negatived	X	439
SPECIAL JUDGMENT as to sanity	X	425
SPECIAL JURISDICTION	VII	16-19
'SPECIAL LAW' defined	X	4
SPECIAL LAWS, compensation out of fines imposed under, ...	X	308
levy of such fines	,,	307
offences under, by whom triable	,,	7, 8
prohibition of nuisances under, ...	,,	519
saving of powers conferred by, on police ...	,,	111
venue	,,	63
SPECIAL LICENSE, saving of marriages solemnized under, ...	XV	69, cl. 2
SPECIAL MAGISTRATES	X	42
SPECIAL PROPERTY, see *Females.*		
SPECIAL RULES of evidence in criminal cases ... ... See *Evidence.*	X	323—30
SPECIFIC PERFORMANCE of contract to refer to arbitration ...	IX	28, excep. 1
SPECIFIED PURPOSE, warranty on sale of goods ordered for a, ...	IX	114
SPIRITS manufactured in British Burma at distilleries worked according to English method, imposing duty on, ...	XVI	pream.
duty on, ...	,,	2
duty to vary according to strength of, ...	,,	2, cl. 2
clauses 2 and 3, section 21, Excise Act, 1871, to apply to,	,,	3
prior levy of duties on, legalized	,,	3, cl. 2
SPIRITUAL CHARGE	XV	29
SQUADRON, see *Officer commanding.*		
STAKES, suit for, ...	IX	30
STAMP, presumption as to genuineness of, ...	I	82
that document bore proper, ...	,,	89
STAMPED, see '*Coin' defined.*		
STAMPS, government, offences against,—habitual offender to be committed	X	315
STATE, admissibility of evidence as to affairs of, ...	I	123
foreign, when court must take judicial notice of existence, &c., of, ...	,,	57
document produced by witness referring to matters of, ...	,,	162
of mind, body, or bodily feeling, see *Relevancy of facts.*		
of things under which relevant facts or facts in issue happened	,,	7
in which buyer is to take goods, sale where seller is to put into, ...	IX	80
conviction of offence against, disqualifies person from serving as juror or assessor	X	405
STATEMENT by witness is 'Evidence'	I	3
as to fact of public nature contained in certain Acts or notifications, relevancy of, ...	,,	37
forming part of conversation, document, book, or series of letters or papers, what evidence admis[illegible] ...	,,	39
of conspirator, how far a relevant fact ...	,,	10
of law of country contained in law-bo[illegible] of,	,,	38
of point in doubt to be referred [illegible] missioner	VII	31
of point as to which ruling dec[illegible]	,,	35
of case when doubt arises as to [illegible]	,,	47

	Act.	Sec.
STATEMENT (*concluded*)		
of point as to which judges of special court differ ...	VII	75 (1), (2)
of income, penalty for failure to deliver, ...	VIII	38
to be submitted by registrar in native state doubting authority to forbid certificate	XV	48, cl. 6
as to dwelling or consent, marriage not void for irregularity as to, ...	"	77 (1)
STATEMENTS, see *Admission.*		
by persons who cannot be called as witnesses ...	I	32,33
in maps, charts, and plans, relevancy of, ...	"	36
made under special circumstances	"	34—38
relevancy of, ...	"	8
written or verbal, of relevant facts by person dead or who cannot be found, &c., when relevant ...	"	32
when relating to cause of death ...	"	32 (1)
when made in ordinary course of business	"	32 (2)
when against interest of maker ...	"	32 (3)
when giving opinion as to public right or custom, or matter of public or general interest ...	"	32 (4)
when relating to existence of relationship	"	32 (5)
when relating to existence of relationship, and made in will, deed, pedigree, or on tombstone, &c...	"	32 (6)
when made in document relating to transaction by which right or custom created, &c. ...	"	32 (7)
when made by several persons and expressing feeling, &c., relevant to matter in question ...	"	32 (8)
made by accused person to magistrate not having jurisdiction are evidence	X	45
made regarding cases investigated by police may be recorded by any magistrate	"	122
rules regarding, may be made by high courts ...	"	292
of person under pardon may be put in evidence against him	"	349
See *Recorder.*		
STATES, see *Dominions, Foreign states, Native states.*		
STATION, see *Collector of customs.*		
STATION DIARY, non-cognizable complaints to be entered in, ...	X	113
STATUS, burden of proof lies on person asserting, ...	X	83
duty of magistrate to ask as to, ...	"	84
STATUTE 29 Car. II, cap. 3, repeal of sections 1, 2, 3, 4 and 17 of,	IX	sch.
26 Geo. III, cap. 57, repeal of section 29 of, ...	XI	2 & sch. I
section 38 repealed so far as it relates to courts of justice in the East Indies	I	2 & sch.
33 Geo. III, cap. 52, repeal of section 67 of, ...	XI	2 & sch. I
53 Geo. III, cap. 155, see repealed	X	2 & sch. I
58 Geo. III, cap. 84, repe	XV	2 & sch. V
3 & 4 Will. IV, cap. 85, ...s, &c. for Panjab, than under, ...	IV	4 & sch. II
11 & 12 Vic., cap. 21, ... of, ...	IX	sch.
14 & 15 Vic., ca... ...	XV	2 & sch. V
...d so much ...ritish India	I	2 & sch.

	Act.	Sec.
STATUTE (*concluded*)		
16 & 17 Vic., cap. 95, repeal of rules, &c., for Panjáb, made otherwise than under, ...	IV	4 & sch. II
17 & 18 Vic., cap. 104, arrest of seamen and apprentices engaged under, ...	X	106
33 Vic., cap. 3, sec. 1, regulations for Panjáb made under, not affected	IV	2
STATUTES repealed	I	2 and sch.
saved	IX	1
STAY of execution of whipping	X	312
STAYING order regarding suspicious property	X	419
proceedings in case of lunatic	,,	423, 425, 428
STEAMERS or class of steamers, power to exempt from operation of Act	XII	1
STEAM-SHIPS, power to reduce space for passengers to be provided in, ...	XII	3
power to reduce amount of water for passengers to be provided in, ...	,,	4
STOLEN PROPERTY over Rs. 500 in value, fine in case of, ...	IV	42
fee to tracker for recovery of, ...	,,	42, par. 3
purchase of, in good faith	IX	108, ill. (*a*)
arrest of person found in possession of, ...	X	92
deposit or sale of,—search of house suspected to contain, ...	,,	377
procedure when owner of, is unknown ...	,,	416
seizure of, by police, to be reported to magistrate	,,	415
STOPPAGE in transit	IX	99, 106
continuance of, ...	,,	101
cessation of, ...	,,	102
how effected	,,	104
right of seller on, ...	,,	106
re-sale after, ...	,,	107
of re-delivery of goods bailed	,,	167
STORAGE OF GOODS, see *Expenses*.		
STRAITS SETTLEMENTS, exemption of, from Indian Emigration Act, 1871	XIV	
saving of Act V of 1865 so far as it relates to, ...	XV	sch. V
STREAMS, see *Buoys, Crossing*.		
SUB-AGENT, when agent may employ, ...	IX	190
defined	,,	191
when he represents principal	,,	192
agent's responsibility for act of, ...	,,	192
responsible to agent	,,	192
when responsible to principal	,,	192
appointed without authority	,,	193
termination of his authority	,,	210
SUB-DIVISIONS of districts, certain persons to be deemed deputy collectors in charge of, ...	XXII	1
of districts within meaning of Act X of 1859 ...	,,	3, par. 2
SUBJECT-MATTER of suit, jurisdiction according to situation of, ...	VII	41
SUBJECTS of Her Majesty in native states, Act applies to all, ...	XII	1
of state represented by consul, &c., saving of marriages between, ...	XV	87
of Her Majesty in native states, Act applies to ...	XXI	1
See *British, Christian, European, Native*.		
SUBMISSION of offender in contempt; discharge	X	436
of proceedings before magistrate of [illegible] class for enhanced punishment	[illegible]	46

	Act.	Sec.
SUBORDINATE COURTS, power of commissioner to refer suits to, ...	VII	8, table 21, cl. 3
transfer of certain cases to, ...	"	
may not act as courts of revision (sections 328 and 398 excepted)	X	297
'SUBORDINATE MAGISTRATE OF THE FIRST CLASS'	VIII	2
means a magistrate of the second class...	X	2
'SUBORDINATE MAGISTRATE OF THE SECOND CLASS' means a magistrate of the third class ...	X	2
SUBORDINATE MAGISTRATES		
appointment and subordination of, ...	X	37
division of districts into divisions; existing divisions preserved	"	39
duty of, on arrest of person for offence committed beyond jurisdiction	"	175
local government may put magistrate in charge of division; delegation of power to magistrate of district	"	40
local government may empower magistrates of districts to withdraw classes of cases	"	48
local government may authorize magistrate of district to distribute business by localities ...	"	49
magistrate may, in first instance, commit accused for trial before court of session	"	46
magistrate may withdraw or refer cases... ...	"	47
mode of conferring powers	"	43
power to determine local jurisdiction of magistrate of district	"	38
procedure of magistrate in cases beyond his jurisdiction	"	45
procedure when magistrate cannot pass sentence sufficiently severe	"	46
special magistrates	"	42
subordination of officers to magistrate of division of district	"	41
transfer of criminal cases to, ...	"	44
allowance to witnesses in courts of, ...	XXIV	pream.
SUBORDINATE POLICE OFFICER making investigation to report to officer in charge of police-station	X	123
SUBORDINATION of magistrates to magistrate of district ...	X	37, 40
of magistrates to magistrate of division of district	"	41
of all magistrates in sessions division to court of session for certain purpose	"	295
magistrate to apply for commission to court of session to which he is subordinate ...	"	330
SUBSEQUENT advances by pawnee	IX	174
SUBSISTENCE, arrest of person without ostensible, ...	X	94
security for such person's behaviour	"	504
SUBSISTENCE ALLOWANCE to witnesses	XXIV	pream.
SUBSTANCE, removal of combustible, ...	X	521
SUBSTITUTE for juror rejected	X	243
for officer in charge of police-station	"	136
SUBSTITUTION of one contract for another	IX	62
see *Oath*.		
SUBTRACTING from terms of [illegible] act, &c., see *Exclusion of ev*[illegible]		

	Act.	Sec.
Succession, rule of decision in questions as to, ...	VII	6
Successor, transfer to, of marriage-register-book	XV	37
Sudden death, information regarding, ...	X	90
inquest by magistrate as to cause of, ...	"	135
police investigation into cause of, ...	"	133, 134
Sufferance, see *Treaty*.		
Suggestion of what is not true	IX	17, cl. (1)
Suit, of what facts evidence admissible in, ...	I	5
for damages, relevancy of facts in, ...	"	12
See *Judgments*.		
by person claiming pre-emption against vendor or purchaser	IV	17
when not maintainable for acts done in abating local nuisances	X	525, 528
for costs and damages in case of frivolous protest ...	XV	49
as to validity of marriage, certificate to be received in, ...	"	61, cl. 2
in respect of prior levy of duties on spirits barred ...	XVI	3, cl. 2
See *Objector*.		
Suitor, saving of right of, to act for himself or co-suitor ...	VII	58
Suits, see *Pending*, *Transfer*.		
instituted in Burma courts, power of commissioner and judicial commissioner to withdraw and try, or to refer ...	VII	8, table
cognizable by small cause courts, power to invest with jurisdiction as to, ...	"	17
for immoveable property situated within jurisdiction of different courts, applications for authority to proceed with, ...	"	20
in which presiding officers are interested, procedure in respect of, ...	"	21
as to which recorder has jurisdiction	"	41
as to land or other immoveable property, new trial in, ...	"	46
power to direct transfer of, to recorder's court	"	51
in which recorder is interested, disposal of, ...	"	52
to set aside assessment not to lie in civil court... ...	VIII	42
in respect of emigration to, or contracts for labour in, straits settlements, bar of, ...	XIV	2
preferred before certain deputy collectors to be deemed to have been properly preferred	XXII	2
Summary examination of complainant...	X	144
into allegations of petition... ...	XV	45, 46, 48
Summary proceeding in case of non-delivery of goods re-imported	XXIII	5, par. 2
Summary trials	X	222—230
language of record	"	229
local government may invest magistrates of first class with summary powers ...	"	223
bench of magistrates exercising first class powers with summary powers ...	"	224
bench of magistrates exercising second or third classs powers with limited summary powers ...	"	225
allow clerk to prepare record of bench of magistrates	"	230
by magistrates, first class; appeals	"	274
offences which magistrate of district may try summarily	"	222
power to hold, conferable on an[illegible]	"	27

	Act.	Sec.
SUMMARY TRIALS (*concluded*)		
power to hold, conferable on magistrates of first class in charge of divisions of districts ...	X	29
CHAPTER XVIII, regarding, ...	,,	222—30
procedure to be followed in, ...	,,	226
record where no appeal lies	,,	227
record in appealable cases	,,	228
SUMMING UP of judge	X	255, 256
of prosecutor	,,	251
SUMMON witnesses, power of magistrate making inquiry to, ...	X	192
defence-witnesses on inquiry, power to, ...	,,	200
SUMMONING of jurors in local nuisance case	X	524
of material witness	,,	351
of supplementary witnesses after commitment ...	,,	357
of witness to attend search	,,	385
of witnesses on inquiry by, or by order of, appellate court	,,	282
SUMMONS to officer to serve as juror how to be sent	VII	56, cl. 4
to persons to attend police inquest	X	134
to compel appearance	,,	139
not obeyed, warrant may issue when, ...	,,	150
in cases where summons is issued, magistrate may allow accused to appear by agent	,,	151
of the, ...	,,	152—58
form of, ...	,,	152
by whom served	,,	153
how served	,,	154
service when accused cannot be found	,,	155
issue of warrant in addition to, ...	,,	156
or warrant for offence committed beyond local jurisdiction	,,	157
chapter applicable to every, except on jurors and assessors; service on government or railway servants ...	,,	158
warrant for arrest of person disobeying, ...	,,	355
to produce document when issuable	,,	365
or search-warrant	,,	366
on juror or assessor, form of, and how served ...	,,	409, 411
how served on government or railway officer to act as juror or assessor	,,	411
to show cause why bond should not be taken to keep the peace; credible information; may be recalled ...	,,	491
what to contain; when unnecessary	,,	492
to procure attendance of person bound to keep the peace	,,	501
to procure attendance of person bound to be of good behaviour	,,	513
against person it is desired to bind to be of good behaviour	,,	515
'SUMMONS CASE' defined	X	4
summons to issue in a, ...	,,	147
further definition of, ...	,,	148
accused person absconding may be proclaimed	,,	171
See *Trial of summons cases.*		
may be tried summarily	,,	222
mode of recording evidence	,,	333, 336
material witness to be summoned; in non-cognizable cases, discretional with magistrate to summon witness and demand deposit ...	,,	361
SUPERINTENDENCE over courts vested in judicial commissioner ...	VII	14
SUPERINTENDENCE AND [illegible]	X	292—300
S[illegible]		

	Act.	Sec.
SUPERIOR of public servant, power of, to sanction prosecution of		
contempts	X	467
SUPERIOR COURT, transfer to, and trial by, of certain suits ...	VII	21, cls. 2, 3
SUPERIOR OFFICER of police to receive certain reports ...	X	117, 125
SUPERIOR OFFICERS of police, powers of, ...	X	137
SUPPLEMENTARY witnesses, summoning of, after commitment ...	X	357
SUPPORT, obligation to, ...	IX	68
SUPPRESSION of injurious trade or occupation	X	521
SURETIES to bail, recognizance necessary from, ...	X	391
to bail-bond, proceedings to compel payment of penalty by,—attachment and sale of property	,,	397
to bond to keep the peace, procedure to obtain discharge of,	,,	501
recovery of penalty from, ...	,,	503
to bond to be of good behaviour, application for discharge of,	,,	513
recovery of penalty from, ...	,,	514
of lunatic person when bound to produce him ...	,,	427
offered in bad livelihood cases may be rejected ...	,,	516
procedure to obtain discharge of, ...	,,	395
'SURETY' defined	IX	126
liability of, ...	,,	128
his rights on payment or performance	,,	140
his right to benefit of creditors' securities	,,	141
his right against principal debtor	,,	43, expl., 145
SURGEONS exempted from service as jurors or assessors ...	X	406
See *Civil surgeon.*		
SURNAME of parties married	XV	schs. III & IV
of father	,,	schs. III & IV
See *Contents, Particulars.*		
SURPLUS PROCEEDS of goods not cleared and sold	XXIII	4, par. 2
SURROGATE	XV	73, cl. 2
SURVEILLANCE, see *Foreign vagrants.*		
SUSPENSION and removal of officers of courts	VII	23, 25, 27, 61
of order in local nuisance case, pending report by jury	X	523
of sentence by appellate court	,,	281
revision court	,,	297
of trial on amendment of charge	,,	448
SUSPICION, power to take up cases without complaint inherent in magistrates of districts and of divisions of districts and may be conferred on magistrates of first and second classes	X	25, 27, 28
of commission of cognizable offence, power to arrest on reasonable	,,	92
process may be issued on, ...	,,	140
what magistrates may act on, ...	,,	142
SUSPICIOUS or stolen property, power to sell, conferable on magistrates of first class	X	27
inherent in magistrate of division of district	,,	28
SUTTEE, information regarding commission of, or intention to commit, ...	X	99
TABLE, see *Fees.*	X	274
TACKING on non-appealable sentence does not give appeal	X	521
TANK, fencing of, ...		
TAXATION, see *Fees.*		

	Act.	Sec.
TAXES due under Act not affected by its expiry	VIII	1
TECHNICAL expressions, evidence admissible to show meaning of,	I	98
terms to be determined by jury	X	257
TELEGRAM, revocation of proposal or acceptance by, ...	IX	4, ill. (c)
TELEGRAPH DEPARTMENT, persons in, exempted from serving as jurors or assessors	X	406
TELEGRAPH MESSAGES, presumption as to, ...	I	88
TEMPORARY ACT	II	
TEMPORARY INCUMBENTS of office of magistrate of district to exercise powers, pending orders ...	X	55
TENANT, estoppel of, from denying landlord's title	I	116
See *Landlord and tenant.*		
of injured person, &c., objectionable juror	X	244
TENANTS with rights of occupancy, claim of, to pre-emption ...	IV	14, fourth
TENDER	IX	78
TENDER YEARS, person of, when incompetent as witness ...	I	118
TENETS of body of men or family, relevancy of opinions as to, ...	I	49
TERMINATION of agency	IX	201
where agent has an interest ...	"	202
when it takes effect	"	208
by principal's death or insanity ...	"	209
of sub-agent's authority	"	210
TERMS, relevancy of opinions as to meaning of, ...	I	49
TERRITORIES, see *Central provinces, Lieutenant governor, North-western provinces.*		
of native states, see *Native states.*		
TERRITORY, British, proof of cession of, ...	I	113
THAYETMYO, see *Collector of customs.*		
THEFT and passing on the stolen property a continuing offence ...	X	67, ill. (f)
when may be tried summarily	"	222
mode of recording evidence if not tried summarily ...	"	333, 336
charges of, ...	"	439, ill. (c); 441, ill. (a); 456, ill.
and grievous hurt must be tried separately	"	452, ill.
and mischief, joinder of charges of, ...	"	454, ills. (i), (k)
after preparation to cause death; after preparation to cause restraint; after preparation to cause fear of hurt; forms of charges of, ...	"	sch. III
THIEF, arrest of reputed, ...	X	94
binding of, to be of good behaviour	"	505, 506
THING found on search when to be taken to magistrate having local jurisdiction	X	373
THREAT, confession caused by, ...	I	24
THREATS not to be made to prisoners to induce confessions ...	X	120, 184
not to be used to induce disclosure ...	"	344
THUG, information regarding movements of a, ...	X	90
offence of being a, where triable	"	67, ill. (c)
TIME at which any fact in issue or relevant fact happened, facts fixing, ...	I	9
allowed for presenting appeals to commissioner ...	VII	28
allowed for application for new trial or review of judgment	"	46
for presenting petition	VIII	30
may be enlarged ...	"	30
for payment of assessment confirmed or enhanced ...	"	31, 32
for presenting appeal ...	"	32
to be excluded in ...	"	32

	Act.	Sec.
TIME (*concluded*)		
when proposal may be revoked	IX	5
when acceptance may be revoked	,,	5
when proposal is revoked by lapse of, ...	,,	6, cl. (2)
for performance	,,	46, 48, 50, 57
where no time specified and no application to be made ...	,,	46
where time is specified and no application to be made ...	,,	47
prescribed or sanctioned by promisee	,,	50
of the essence of the contract	,,	55
failure to perform where time is essential	,,	55
failure to perform where time is not essential	,,	55
of payment arriving before delivery of goods	,,	96
failure to pay price at fixed, ...	,,	121
to principal debtor, surety when discharged by contract to give, ...	,,	135
when surety not discharged	,,	136
for retiring from partnership	,,	254, cls. (8), (9)
of offence to be stated in charge	X	440
for solemnizing marriages	XV	10
See *Exceptions.*		
of residence, see *Contents, Particulars, Residence.*		
to elapse before issue of certificate of notice and declaration as to marriage	,,	17, prov. (1); 41, provs. (3), (4)
penalty for solemnizing marriage out of fixed,... ...	,,	69
saving of certain marriages solemnized out of fixed, ...	,,	69, cl. 2
penalty for solemnizing marriage before expiry of fixed, ...	,,	70, 71, (3); 73, cl. 6
penalty for issuing certificate before expiry of fixed, ...	,,	72, cl. 2; 73, cl. 6
of solemnization, marriage not void for irregularity as to, ...	,,	77 (4)
TITLE of Act, short, ...	I	1
of foreign state, &c., when judicially noticed	,,	57
of landlord, estoppel of tenant from denying, ...	,,	116
given by seller of goods to buyer	IX	108
seller when responsible for badness of, ...	,,	109
short, ...	X	1
not to be inquired into in possession-case	,,	530
TITLE-DEEDS of witness not a party, production of, ...	I	130
TITLES of Indian public officers when judicially noticed ...	I	57
TOMBSTONE, statement as to relationship made on, ...	I	32 par. (6)
TOWN, see *Judge, King of ava.*		
TOWNS, see *Armed men, Immoveable property, Presidency town, Right of pre-emption.*		
TRACKERS may call for assistance	IV	41
fees to, ...	,,	42, par. 3
TRACK LAW in Panjáb	IV	41, 42
TRADE, saving of usages and customs of, ...	IX	1
agreement in restraint of, ...	,,	27
custom of, ...	,,	110
suppression of injurious, ...	X	521
TRANSACTION, facts forming part of same, ...	I	6
See *Relevancy of facts.*		
TRANSACTIONS to which pre-emption extends	IV	10
TRANSFER of pending appeals, applications, proceedings and suits, ...	VII	4
of suits and appeals to recorder's court ...	,,	51
See *Notice, Register-book.*		
of ownership by sale ...	IX	77

	Act.	Sec.
TRANSFER (*concluded*)		
to third person of partner's interest	IX	254, cl. (3)
of case made over to magistrate by civil or criminal court	X	471
of cases or appeals by high court	,,	64
of commitments of European British subjects by session court to high court	,,	76
of commitments legal, on evidence recorded partly by one officer and partly by another	,,	329
of criminal cases to subordinate magistrates ...	,,	44
of lunatic to lunatic asylum	,,	433
of officers; convictions on record partly made by one officer and partly by another	,,	328
TRANSFERS, see *Fraudulent, Gift.*		
TRANSIT, goods when deemed to be in, ...	IX	100
saving of goods in, ...	XXIII	6, par. 2
TRANSLATION of document produced by witness	I	162
of evidence given in English when unnecessary ...	X	334
of judgment when necessary	,,	464
of notice, certificate and declarations for native christians	XV	57, 58
of certificate, marriage not void for irregularity as to, ...	,,	77 (3)
TRANSLATOR divulging contents of document directed to be kept secret	I	162
See *Interpreter.*		
TRANSMISSION of communication of revocation	IX	4
TRANSPORTATION, commutation of, ...	X	322
currency of sentence of person sentenced to, whilst undergoing imprisonment ...	,,	317
governor general to appoint place for, ...	,,	319
power of sessions judge to pass sentence of, ...	,,	14
removal to place of, ...	,,	319
removal when unnecessary	,,	320
sentence of, may not be passed by assistant sessions judge	,,	18
sentence not to state place of, ...	,,	319
for offence under Act	XV	68
TRANSPORTS, Act does does not apply to, ...	XII	1
TREASURER to deduct duty and pay it to government ...	VIII	8
indemnity to, for deductions and payments ...	,,	8
to furnish annual returns	,,	8
to pay duty in case of shipping companies ...	,,	10
other companies ...	,,	10
to furnish statement of result of accounts ...	,,	10
annual return of profits	,,	11
may be required to attend and produce accounts ...	,,	12
penalty on, for default	,,	38
See *Notice.*		
TREATISES, see *Expert, Professional treatise.*		
TREATY, capitulation, agreement, grant, usage, sufferance, power and jurisdiction of governor general out of British India derived by, ...	XI	pream.
as to extradition not affected	,,	14
TRIAL, see *Judgments.*		
new, see *New trial.*		
of suits and appeals transferred to recorder	VII	51
defined	X	4
to be held accordi[illegible] before courts specified by it or by special [illegible]	,,	7

	Act.	Sec.
TRIAL (*concluded*)		
of offences committed by European British subjects to follow chapter vii	X	11
where to be held	"	63
See *Place of inquiry and trial.*		
effect of holding in wrong place	"	70
of European British subjects before court of session, how conducted	"	78
when to be commenced afresh in respect of persons arrested in court	"	104
court of revision may order, ...	"	297
of accused who had absconded; use of evidence taken in his absence	"	327
mode of recording evidence at, ...	"	332
when to proceed immediately on amendment of charge ...	"	447
when to be suspended or adjourned; new trial may be ordered	"	448
summary, see *Summary trials.*		
of offences committed in places beyond British India, Act to provide for, ...	XI	
power to direct copies of depositions to be received as evidence at, ...	"	10
TRIAL BY COURT OF SESSION	X	231—65
court of session to try committed cases	"	231
trials to be by jury or with assessors	"	232
local government may order trials to be by jury; effect of irregularity	"	233
trial of European or American to be by jury; optional with accused in non-jury case	"	234
prosecution to be conducted by public prosecutor, &c. ...	"	235
number of jury	"	236
commencement of trial; plea; conviction on admission ...	"	237
refusal or neglect to plead or claim to be tried ...	"	238
assessors how chosen	"	239
jurors how chosen	"	240
composition of jury for person neither European nor American	"	241
jury when European or American is charged jointly with one of another race	"	242
names of jurors to be called; objections; procedure ...	"	243
grounds of objection against jurors	"	244
juror to understand language in which evidence is given or interpreted	"	245
foreman of jury; duty; court when to appoint, ...	"	246
examination of witnesses	"	247
examination of accused before magistrate to be put in at trial	"	248
when evidence given at preliminary inquiry may be referred to	"	249
examination of accused; duty of court	"	250
defence; finding or verdict of acquittal	"	251
prosecutor's right of reply	"	252
view by jury or assessors	"	253
procedure when juror becomes unable to attend	"	254
assessors' opinion; charge to jury	"	255
duty of judge	"	256
duty of jury	"	257
when juror or assessor may be examined as a witness	"	258
procedure when assessor is unable to	"	259

	Act.	Sec.
TRIAL BY COURT OF SESSION (*concluded*)		
jury or assessors to attend adjourned sitting	X	260
judgment in cases tried with assessors	"	261
opinion of assessors to be recorded; decision vested in judge	"	262
verdict of jury; to embrace all charges; judge may question jury; procedure where jury differ; judgment; procedure where judge submits case to high court ...	"	263
adjournment	"	264
same jury or assessors may try several offenders ...	"	265
TRIAL OF SUMMONS CASES	X	203—12
by magistrates		
procedure in,—object and effect of complaint; when notice defective	"	203
accused may be bailed or released on recognizance ...	"	204
dismissal of case on non-appearance of complainant ...	"	205
complaint to be stated to accused; accused may be convicted on his own admission	"	206
procedure where accused does not admit	"	207
adjournment; warrant for accused; dismissal of complaint	"	208
compensation in cases of frivolous or vexatious complaint; mode of recovery	"	209
withdrawal of complaint	"	210
acquittal, or conviction and sentence; sentence of fine may be pronounced in presence of agent	"	211
dismissal of complaint equivalent to acquittal; only summons case may be dismissed	"	212
TRIAL OF WARRANT CASES	X	213—21
procedure to be adopted	"	213
sections 190 to 194 to apply	"	214
when magistrate may discharge accused; absence of complainant; effect of discharge	"	215
charge to be drawn up; effect of omission; how to be rectified	"	216
accused to be called on to plead	"	217
defence; filing written statement	"	218
evidence for defence and adjournment	"	219
acquittal or conviction and sentence; necessity for charge ...	"	220
procedure where magistrate finds case beyond his jurisdiction or one which he ought not to try	"	221
TRIALS of European British subjects	VII	55, 56
by commissioner of Akyab, saving of, ...	"	79
TRIBE or class, power to exempt, from income-tax	VIII	3
TRIBUNALS, acts of, ...	I	74
TROOPS, only magistrate or commissioned officers may call on European or native, to disperse unlawful assembly ...	X	481, 482, 487
duty of officer in command of, to obey requisition to disperse unlawful assembly; how to act	"	484
obeying, when protected	"	485
TROUBLE in separating goods ordered from goods not ordered ...	IX	119
TRUSTEE chargeable with income-tax	VIII	17
to furnish statements of income and of persons under trusteeship	"	18
penalty on, ...	"	38
TRY SUMMARILY, power to, conferable on magistrates of first class	X	27
magistrates of first class in charge of divisions of districts ...	"	29
TURKISH GOVERNMENT		
TURKISH PORT, see		

	Act.	Sec.
UNANIMITY, when jury not unanimous court may require further consideration	X	263
UNAUTHORISED act, ratification of, ...	IX	199
UNCERTAIN future event, contract contingent on the happening of,	IX	32
on the non-happening of,	"	33
UNCERTAINTY, agreements void for, ...	IX	29
UNDERSTANDING, procedure in case of defect of, ...	X	186
UNDISCLOSED principal	IX	230, cl. (2)
agent, rights of parties to contracts made by, ...	"	231
'UNDUE INFLUENCE' defined...	IX	16
consent caused by, ...	"	19
UNITED KINGDOM, proof of document required by law to be attested when executed in, and attesting witness cannot be found	I	69
of Great Britain and Ireland, British subjects born, &c., in, are European British subjects	X	71
See *Exclusive right.*		
UNLAWFUL detaining of property	IX	15
threatening to detain property	"	15
object or consideration	"	23
act, contract to do, ...	"	56
UNLAWFUL ASSEMBLIES		
dispersion of, ...	X	480—88
magistrate or officer in charge of police-station may command, to disperse	"	480
magistrate or officer in charge of police-station may disperse, by force, and may call on public to assist	"	481
when magistrate justified in dispersing, by military force	"	482
when use of military force by magistrate no offence ...	"	483
magistrate may require officer in command of troops to disperse,—duty of such officer	"	484
when officer obeying such requisition is protected ...	"	485
when inferior officer or private soldier is protected	"	486
when duty of commissioned officers to disperse, by military force	"	487
prosecutions for acts done in dispersing, by military force require sanction of government of India, Madras or Bombay	"	488
UNNATURAL DEATH, information regarding, ...	X	90
inquest by magistrate as to cause of, ...	"	135
police investigation into cause of, ...	"	133, 134
UNOWNED PROPERTY, sale of, ...	X	417
UNQUALIFIED acceptance	IX	7
UNSOUND MIND, see *Insanity.*		
UNSOUNDNESS	IX	17, ill. *(a)*
of mind how tried	X	423
See *Lunatic.*		
USAGE of trade saved	IX	1
See *Question of law, &c., Religious usage, Treaty.*		
USAGES of body of men or family, relevancy of opinions as to, ...	I	49
See *Mercantile usages.*		
USING false property-mark, charges of, ...	X	439, ill. *(c)*
USUAL course of things	IX	73
hours of business	"	47, 48
VACANCY in office of magistrate of district may be temporarily filled	X	55
in office of marriage registrar, provision in ...	XV	7, cl. 3
See *Recorder.*		

	Act.	Sec.
VACATIONS, see *Holidays.*		
VAGABONDS, power of officer in charge of police-station to arrest,	X	94
VAGRANTS, see *Foreign vagrants.*		
VAKÍL, certain questions asked by, without reasonable grounds, may be reported to high court	I	150
communication made to, by or for client, when disclosable	"	126
when not disclosable ...	"	126
waiver of privilege ...	"	128
privately instructed for prosecution to act under direction of public prosecutor	X	60
See *Barrister.*		
VAKÍLS of high courts may act in recorder's court without license	VII	58
VALIDATION of marriages on registry	III	20
of marriages within prohibited degrees not effected	XV	88
VALIDITY of marriages, or mode of contracting them, not affected	III	19
of marriage, certificate to be received in suit as to, ...	XV	61, cl. 2
See *Marriages, Objection.*		
VALUABLE CONSIDERATION	IX	102
VALUE of subject-matter, erroneous opinion as to, ...	IX	20
VARIANCE in terms of contract, discharge of surety by, ...	IX	133
of charge, accused may apply for, ...	X	444
of offence laid in complaint	"	141, 203
VARYING terms of document, who may give evidence of contemporaneous agreement, ...	I	99
written contract, &c., see *Exclusion of evidence.*		
evidence inadmissible of oral agreement, ...	"	92
VENDOR of property subject to pre-emption, notice to be given by,	IV	13
claim to pre-emption in order of relationship to, ...	"	14, first
suit against, by claimant to pre-emption	"	17
of stolen property, information respecting residence of,...	X	90
VENUE, see *Place of inquiry and trial.*		
in cases of police investigations	X	114
VERACITY of witness, questions in cross-examination to test, ...	I	146—150
not to be asked without reasonable grounds	"	149
when court may report asking of question to high court ...	"	150
VERDICT of jury, procedure where judge differs from, ...	X	263
to be delivered on all charges	"	263
may be set aside on reference	"	288
on revision only on ground of misdirection ...	"	299
VERIFICATION of petition	VIII	30
VERNACULAR LANGUAGE, local government may order magistrate or sessions judge to record evidence in his ...	X	335
may decide what is language in ordinary use in district	"	337
marriage-registers to be kept in, ...	XV	62
VESSEL in which goods are to be shipped	XXIII	2, par. 2
shipped	"	3
saving of goods in transit in, ...	"	6, par. 2
saving of goods on [illegible]	"	6, par. 2
VEXATION, procedure wh[illegible]	X	359

	Act.	Sec.
VEXATIOUS COMPLAINT, dismissal of, ...	X	209
VICINITY, decision of questions as to pre-emption according to, ...	IV	16
VIEW by jury or assessors	X	253
VILLAGE, order in which right of pre-emption may be exercised when property is part of, ...	IV	14
fine on, under trick law	"	42
VILLAGE COMMUNITIES, see *Right of pre-emption.*		
VILLAGE COMMUNITY, claim to pre-emption of member of, ...	IV	14, third
VILLAGE HEADMEN, duty of, as regards report of certain matters	X	90
inquests by, in Madras and Bombay ...	"	133
saving of jurisdiction and procedure of, in Madras	"	541
VILLAGE POLICE OFFICERS, duty of, as regards report of certain offences	X	90
jurisdiction and procedure of, in Bombay saved	"	541
VILLAGES where chakdári tenure prevails, right of pre-emption as to shares in well in, ...	IV	20
VILLAGE SITE, see *Right of pre-emption.*		
VILLAGE-WATCHMEN to assist trackers	IV	41
fine on village if assistance not given by, ...	"	42
VISITOR OF LUNATIC ASYLUM, certificate of officer equivalent to one by a, ...	X	427
VISITORS OF LUNATIC ASYLUMS to visit lunatic prisoners at least once in six months ...	X	431
certificate of, receivable as evidence	"	432
VOID, see *Certificate, Custom, Decree, Irregularity, Local customs, Marriage, Marriages, Mercantile usages, Proceedings.*		
'VOIDABLE CONTRACT' defined	IX	2, cl. (*i*)
where consent is caused by coercion, &c. ...	"	19
when one party prevents the other from performing reciprocal promise, ...	"	53
communication or revocation or rescission of, ...	"	66
consequences of rescinding, ...	"	64
sale of goods by person possessing them under a, ...	"	108, expl. 3
contract of bailment when a, ...	"	163
'VOID AGREEMENT' defined	IX	2, cl. (*g*), 57
when consideration or object unlawful in part	"	24
when made without consideration ...	"	25
'VOID CONTRACT' defined	IX	2, cl. (*j*)
VOYAGE, offence during, where triable	X	67, ill. (*a*)
WAGER, agreements by way of, ...	IX	30
WAGING WAR against the Queen, form of charge of, ...	X	sch. III
WAIVER, failure to plead status a, ...	X	84
'WANT or failure' substituted in Evidence Act	XVIII	8
WANT OF SKILL, compensation for consequences of agent's,	IX	212
compensation for injury caused by principal's, ...	"	225
WAR, contract when rendered void by declaration of, ...	IX	56, ill. (*d*)
WAREHOUSE-KEEPER'S certificate	IX	108, expl. 1
pledge by possessor of, ...	"	178
WARNING witness that he need not answer certain questions ...	I	148
WARRANT to arrest person who committed offence outside magistrate's jurisdiction, power to issue, conferrable on magistrates, first class ...	X	27
power to issue, inherent in magistrate of district	"	23

	Act.	Sec.
WARRANT (*concluded*)		
to compel appearance	X	139
when may issue in summons case	"	148
may issue where summons not obeyed	"	150
may be issued in addition to summons	"	156
issue of, for offence committed beyond local jurisdiction	"	157
procedure on arrest under, ...	"	174, 175
for arrest of accused in default of appearance on adjourned summons trial	"	208
of arrest, issue of, for witness	"	352
of arrest for person disobeying summons	"	355
of arrest on application of bail-surety for release ...	"	395
of arrest when issuable for person whom it is desired to bind to keep the peace	"	494
of arrest to compel attendance of person bound to keep the peace	"	501
of arrest to compel attendance of person bound to be of good behaviour	"	513, 515
for arrest and removal of offenders in native state escaping into British India	XI	11
direction and execution of, ...	"	12
for custody and removal of accused person whose extradition is required	"	14
'WARRANT CASE' defined	X	4
warrant to issue in a, ...	"	147
further definition of,—warrant or summons may issue	"	149
witnesses how procured	"	362
trial of, see *Trial of warrant cases.*		
WARRANT FOR ATTACHMENT and sale of property of person forfeiting bail-bond ...	X	396
of property of sureties ...	"	397
of property of person bound to keep the peace ...	"	502
of property of surety ...	"	503
of property of surety to bond to be of good behaviour	"	514
WARRANT FOR DELIVERY	IX	108, expl. 1
pledge by possessor of, ...	"	178
WARRANT FOR DETENTION of person ordered to furnish security to be of good behaviour for more than one year	X	506
WARRANT FOR ENFORCEMENT of order of maintenance ...	X	536
WARRANT FOR LEVY of fine by whom issuable	X	307
WARRANT OF ARREST	X	159—85
form and effect of, ...	"	159
magistrate may take bail; bail-bond to be forwarded	"	160
to whom directed	"	161
magistrate of district may direct, to landholder, &c.	"	162
execution of, addressed to persons other than police officers, ...	"	163
may be directed to several persons	"	164
directed to police officer how executed	"	165
magistrate may superintend execution of, and may direct arrest in his presence	"	166
where it may be executed	"	167
issue of [illegible] beyond local jurisdiction; pro[illegible]	"	168

	Act	Sec.
WARRANT OF ARREST (*concluded*)		
procedure on arrest of person beyond jurisdiction ...	X	169
procedure by magistrate before whom arrested person is brought	"	170
proclamation for person absconding	"	171
attachment and sale of property of person absconding	"	172
restoration of forfeited property ...	"	173
procedure on arrest of person for offence committed beyond magistrate's local jurisdiction ...	"	174
procedure where it was not issued by magistrate of district	"	175
notification of substance of ...	"	176
how to be executed	"	177
procedure in case of resistance to	"	178
search of house entered by person against whom it has been issued	"	179
breaking of door or window	"	180
breaking open zanána	"	181
person not to be unnecessarily restrained ...	"	182
person arrested to be brought before magistrate ...	"	183
no inducements to be offered to accused to make disclosure or confession	"	184
chapter applicable to every	"	185
WARRANT OF COMMITMENT to custody; forms	X	303
with whom to be lodged ...	"	304
for refusal to answer	"	356, 364
WARRANT OF EXECUTION	X	302
to be certified by jailor	"	305
WARRANT OFFICERS exempted from income-tax	VIII	3
WARRANT OF RELEASE of person furnishing bail	X	394
WARRANT OR SUMMONS, column 4 indicates mode of exercising discretion given by sections 148, 149 and 150	X	sch. IV note 7d
WARRANTS, see *Law*.		
WARRANTS, SEARCH, see *Search-warrant*.		
to produce document	X	366
WARRANTY	IX	109—118
established by custom of trade	"	110
on sale of provisions	"	111
on sale by sample	"	112
on sale of goods as being of a certain denomination ...	"	113
on sale of goods ordered for a specified purpose ...	"	114
on sale of article of well-known ascertained kind ...	"	115
WATCHMAN, duty of village, as regards report of certain offences	X	90
WATCHMEN, see *Village watchmen*.		
WATER, disputed possession of	X	530, 531
disputes concerning supply of, or use of	"	532
See *Passengers*, *Steam-ships*.		
WAY, disputes concerning right of	X	532
WEAPON connected with investigation when to be forwarded ...	X	127
WEIGHMENT, sale of goods requiring	IX	81, illus. (*a*), (*b*)
WEIGHTS, offences relating to, may be tried summarily ...	X	222?
mode of recording evidence if not tried summarily ...	"	333, 336
search by officer in charge of police-station for false ...	"	381
WELL, right of pre-emption as to shares in	IV	20
fencing of	X	521
WHARFINGER, delivery to	IX	91
WHARFINGERS, their liens	IX	171

	Act.	Sec.
WHARFINGER'S CERTIFICATE...	IX	108, expl. 1
pledge by possessor of, ...	"	178
WHIPPING, sentence of, by magistrate of first and second class ...	X	20
only, when no appeal against sentence of, ...	"	273, 274
and imprisonment, procedure where appeal against sentence of, lies	"	310
how inflicted	"	311
offender to be certified in fit state of health; stay of execution; not to be executed by instalments ...	"	312
when not wholly carried out...	"	313
WIDOW intending marriage, being a minor, father or guardian need not sign declaration in case of, ...	III	10
of deceased partner receiving annuity out of profits not a partner	IX	243
WIFE of accused competent witness in criminal proceeding ...	I	120
of party to civil suit competent witness	"	120
declaration to be made by, ...	III	20 & sch. VI
maintenance of, ...	X	436
See *Maintenance*.		
and husband, declaration to each other by, ...	XV	51, cl. 5
or husband living, persons intending marriage not to have, ...	"	60 (2)
and husband, declaration to each other by, in case of native christians	"	60 (3)
WILFUL WRONG	IX	192
WILLS, statements as to relationship made in, ...	I	32, par. (6)
custom made in, ...	"	32, par. (7)
provisions of Indian Succession Act as to construction of, not affected	"	100
under Indian Succession Act how provable	"	91
rule of decision in questions as to, ...	IV	5
WINDING UP private partnership	IX	263, 265
WINDOW, breaking of, in executing search-warrant ...	X	383
warrant of arrest	"	180
WING, see *Officer commanding*.		
WITHDRAWAL OF CASES, power of, inherent in magistrate of division of district	X	28
and appeals	"	347
WITHDRAWAL OF CHARGE by prosecutor	X	459
by public prosecutor	"	61
WITHDRAWAL OF CLASSES OF CASES by magistrates of districts on sanction of local government	X	48
WITHDRAWAL OF COMPLAINT in summons case	X	210
WITHDRAWAL OF PARDON, effect of, ...	X	322
from queen's evidence	"	349
WITNESS, accomplice competent, against accused person ...	I	133
accused, husband or wife of, competent, in criminal proceedings	"	120
attesting, proof when he cannot be found, or document executed in the United Kingdom ...	"	69
when execution of document must be proved by,	"	68
judge as, ...	"	121
magistrate as, ...	"	121
pleader as, ...	"	126
pleader's clerk or servant as, ...	"	127
public officer as, ...	"	124
police officer as, ...	"	125
vakil as, ...	"	126

	Act.	Sec.
WITNESS, (*concluded*)		
vakil's clerk or servant as, ...	I	127
attorney as, ...	"	126
attorney's clerk or servant as, ...	"	127
barrister as, ...	"	126
barrister's clerk or servant as, ...	"	127
client as, ...	"	129
contradiction of, ...	"	153
credit of, confirmation of, ...	"	158
credit of, how impeached	"	155
impeachment of, ...	"	158
questions in cross-examination affecting ...	"	146—150
cross-examination of, see *Cross-examination of witness*		
dumb, mode of giving evidence by, ...	"	119
evidence of, when relevant for proving, in subsequent proceeding, truth of facts stated	"	33
examination of, as to written document or contents ...	"	144
examination-in-chief of, see *Examination-in-chief of witness.*		
husband of accused competent, in criminal proceedings	"	120
interpreter as, ...	"	127
power of judge to examine, ...	"	165
not a party, title-deeds of, when compellable to produce	"	130
when not compellable to produce	"	130
not excused from answering on ground that answer will criminate	"	132, 147
oral evidence of, as to statements by other persons of contents of documents, when admissible ...	"	144
order of examinations of, ...	"	138
party to civil suit, and husband or wife, competent, ...	"	120
production of document by, ...	"	162
proof of former statement of, to corroborate testimony	"	157
questions to, by jury or assessors	"	166
re-examination, see *Re-examination of witness.*		
refreshing memory by reference to writing ...	"	159
when made by witness ...	"	159
when made by another person ...	"	159
when witness may refer to copy ...	"	159
may be cross-examined upon it ...	"	161
statements by persons [illegible] called as, ...	"	33
to character, cross-examination and re-examination of, ...	"	140
translation of document produced by	"	162
when compellable to answer question in cross-examination testing veracity, &c. ...	"	147
in what case court to decide ...	"	148
when he may testify to facts mentioned in document ...	"	160
wife of accused competent, in criminal proceedings	"	120
breach by, of recognizance-bond; procedure ...	X	398
WITNESSES	I	118—134
what persons competent, ...	"	118—133

	Act.	Sec.
WITNESSES, (*concluded*)		
examination of, ...	I	135—166
no particular number necessary to prove fact ...	"	134
order of production and examination of, ...	"	135
to marriage to sign declaration	III	10
marriage to be solemnized in presence of, ...	"	11
to sign marriage-certificate	"	13
saving of certain laws requiring, ...	IX	10
to be bound to appear when case is sent up by police ...	X	130
recusant, may be forwarded in custody ...	"	131
for prosecution, examination of, in inquiries ...	"	190
to be in presence of accused	"	191
for defence, power to summon, on inquiry ...	"	200
examination of, before court of session	"	247
when jurors or assessors may be examined as, ...	"	258
examination of, on inquiry by, or by order of, appellate court	"	282
medical examination of, may be put in, or witness may be called	"	323
record of evidence taken in absence of accused admissible at trial when witnesses not procurable ...	"	327
power to dispense with personal attendance of, and to issue commission	"	330
examination of, on oath, &c.	"	331
remarks regarding demeanour of, ...	"	341
to execute recognizances for attendance	"	360
to search to be summoned; not to be required to attend court	"	385
payment of expenses of, by criminal courts; rules ...	"	421
for defence, accused may summon, on amendment of charge	"	448
court to summon material, on amendment of charge ...	"	448
required to be present at marriage	XV	25, 51
of marriage to attest entries	"	33, 54
to marriage between native christians	"	60 (3)
penalty for solemnizing marriage without, ...	"	69
errors in registration to be corrected in presence of, ...	"	78
to attest entries in correction of errors	"	78, cl. 2
to marriage, signatures of, ...	"	sch. III
subsistence-allowance to, ...	XXIV	pream.
WITNESSES IN INQUIRIES—		
how procured; refusal to summon defence-witness; mode of summoning supplementary witnesses	X	357
defence-witnesses to be summoned to appear at trial	"	358
refusal to summon witness for defence; deposit of expenses	"	359
recognizances of prosecutors and witnesses; recusant prosecutor or witness may be detained in custody	"	360
WITNESSES IN SESSIONS TRIALS—		
accused may examine any witness in attendance; may not of right summon fresh witness	X	361
refusal of witness to answer; detention in custody	"	364
WITNESSES IN SUMMONS CASES—		
magistrate to summon material witness; in non-cognizable cases discretional with magistrate to summon witness and demand deposit	X	361

	Act	Sec.
WITNESSES IN WARRANT CASES—		
magistrate to summon material witnesses for prosecution; defence-witnesses how summoned; deposit; appeal against refusal ...	X	362
WITNESSES, OF SECURING THE ATTENDANCE OF, ...	X	350—56
procedure to be followed	"	350
court or magistrate to summon material witness	"	351
when warrant of arrest may issue in first instance	"	352
when warrant cannot be served, proclamation; attachment of property	"	353
release of property on witness appearing and satisfying court or magistrate; sale of property	"	354
warrant for arrest of person disobeying summons	"	355
committal of person refusing to answer ...	"	356
WITNESSES, SECURING DOCUMENTARY EVIDENCE—		
officer in charge of police-station and court may issue summons to produce document ...	X	365
when may issue search-warrant for document ...	"	366
power of court to impound and restore documents	"	367
WIVES and families, maintenance of, ...	X	536—38
WOMAN, execution of pregnant, to be postponed	X	306
how searched	"	386
sanction necessary to prosecution for enticing away married, ...	"	479
See *Age*.		
WORLDLY AFFAIRS, persons who have relinquished care of, disqualified from serving as jurors or assessors	X	405
WORDS, proposal or acceptance made in, ...	IX	9
acquiescence in continuance of contract signified by, ...	"	39
WORSHIP, see *Building, Place*.		
WRITING is a 'Document'	I	3
comparison of, with admitted or proved writing ...	"	73
dumb witness may give evidence by, ...	"	119
when witness may refresh memory by reference to, ...	"	159
to refresh witnesses' memory, adverse party entitled to production of and may cross-examine upon, ...	"	161
saving of certain laws requiring, ...	IX	10
agreement made in, ...	"	25
contract to refer to arbitration in, ...	"	28, excep. 2
guarantee need not be in, ...	"	126
See *Notice of marriage*.		
'WRITTEN' defined	X	4
WRITTEN ACCOUNT of examination by police not to be treated as part of record	X	119
WRITTEN ORDER to prevent obstructions, &c.	X	518
WRITTEN STATEMENT of defence in trials of warrant cases, optional with court to file, ...	X	218
WRITS, certain, not to be issued beyond presidency towns ...	X	82
WRONG-DOERS, suits by bailees or bailors against, ...	IX	180
WRONGFUL refusal to accept goods sold	IX	120
WRONGFULLY CONCEALING person known to have been kidnapped may be inquired into and tried where concealment or where kidnapping took place	X	66, ill. (c)

	Act.	Sec.
Year to be entered	XV	schs. III & IV
Youthful offenders may be confined in reformatories ...	X	318
Zanána, arrest-warrant how executed in, ...	X	181
" breaking of, under search-warrant	"	384

Office Supdt. Govt. Printing.—No. 64 L. R.—30-9-75.—3,000